

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

April 15, 2015

TO: Mark P. Elvin, Assistant Sheriff
Law Enforcement Services

FROM: Christine Harvel, Lieutenant
Internal Affairs Unit (O41)

INTERNAL AFFAIRS CASE # 2014-108.1

Please review this investigation and check where appropriate. When all action is completed, please return directly to the Internal Affairs Unit. DO NOT FORWARD THROUGH THE CHAIN OF COMMAND. This will be done by the Internal Affairs Unit. If you have any questions, please call (858) 974-2065.

☐ I concur with the Internal Affairs conclusions. **No further formal action is recommended.**

☐ I concur with the Internal Affairs conclusions. **Discipline recommendation attached.**

☐ I disagree with the Internal Affairs findings. **See attached report.**

☐ A procedural change is being written and an approved copy will be sent to Internal Affairs.

Signed _____ Date _____



COPY



SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

Internal Affairs

CASE NUMBER: 2014-108.1

ACCUSED EMPLOYEES: Mark Karo, [REDACTED]
[REDACTED]

COMPLAINANT: SDSD

INVESTIGATOR: Kenneth Jones, Sergeant

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- E. Criminal Intelligence Detail's Case Audit for Karo, [REDACTED]
- F. Criminal Intelligence Detail's Case Audit for CAU (Other Detectives)
- G. Document Authored by [REDACTED] [REDACTED]



H. San Diego County Sheriff's Department CAU Manual

I. Document Authored by [REDACTED] [REDACTED]

J. Reviewed Cases for Detective Mark Karo

K. Reviewed Cases for [REDACTED] [REDACTED]

L. Reviewed Cases for [REDACTED] [REDACTED]

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FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

July 14, 2014
IA# 2014-108.1

NOTICE OF ASSIGNMENT TO INTERNAL AFFAIRS INVESTIGATOR

TO: Commander Barletta
Investigations (O41)

RE:

[REDACTED]
[REDACTED]
[REDACTED]
Deputy Mark Karo #5052 – San Marcos Station
[REDACTED]
[REDACTED]

**** Family Protection Detail**

The attached complaint has been assigned to Sergeant Ken Jones of the Internal Affairs Unit for investigation. You will be informed of the results upon completion of the investigation.

Should you wish to be briefed at any time, please feel free to call me at (858) 974-2065.

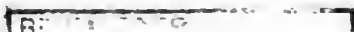
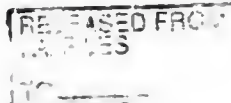
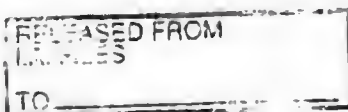
Thank you.



Christine Harvel, Lieutenant
Internal Affairs Unit

CH:pgl

****Incidents occurred while all the above were assigned to the Family Protection Detail**



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

Date: July 10, 2014
Complainant: **SDSO**
Date of Incident: Ongoing
Location of Incident: Child Abuse, Ridgehaven
Allegation: **Procedural**
Case No: 2014-108.1

TO: Deputy Mark Karo #5052
San Marcos Station (N145)

This is to inform you that the Internal Affairs Unit has received a complaint regarding your conduct. The investigation of this complaint will be handled by SERGEANT K. JONES of the INTERNAL AFFAIRS UNIT. The investigator will contact you to arrange an interview.

As a sworn member of this department, you should be aware of your rights contained in Government Code Sections 3300-3311 (Peace Officer's Bill of Rights) or contact an employee representative or attorney for advice.

The Department Policy and Procedure Manual also details your responsibilities during the investigation. Your attention is specifically directed to Sections 2.15 Insubordination; 2.38 Intervention; 2.41 Departmental Reports, and 2.46 Truthfulness.

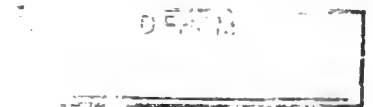
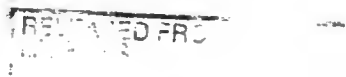
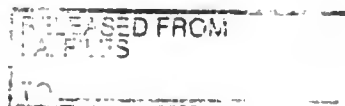
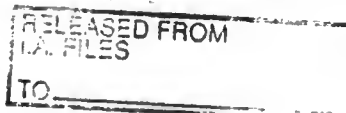
You are hereby ordered not to disclose anything regarding this investigation with anyone other than your employee representative or legal counsel.

If you have any questions, please feel free to contact the Internal Affairs unit at (858) 974-2065.

Do not attempt to contact the complainant regarding the allegations, as this could result in future complaints.


Christine Harvel, Lieutenant
Internal Affairs Unit

CH:pgl



THE SHERIFF'S CORPORATE DIRECTORY SEARCH RESULT


(Active Employees)

* Home Phone number and Confidential phone number are viewable just by you and Comm Center Supervisors

Enter Partial Names:

Last: First: [Advanced Search](#)[Printer Friendly](#)

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GENERAL INFORMATION (To update this information, click on the employee name)	
Name: Karo, Mark A	
Title: DEP SHERIFF	
NT User ID: MKAROXSH	
PeopleSoft ID: 035194	
ARJIS Number: SH5052	
Desk Phone: <input type="text"/>	
Cell Phone: <input type="text"/>	
Pager No.: <input type="text"/>	
Home Phone: <input type="text"/>	
Confidential Phone: <input type="text"/>	
Other: <input type="text"/>	
Radio Unit: 10J3	
Sheriff's Email: Mark.Karo@sdsheriff.org	
Other Email: <input type="text"/>	
Responsibility: Child Abuse Detective	

LOCATION INFORMATION	
CURRENT WORK LOCATION	HR (PeopleSoft) ASSIGNED LOCATION
Dept. Name: Family Protection Detail	Dept. Name: Family Protection Detail
Mail Stop: 041 Show Driving Directions	Mail Drop: 041
Location: Central Investigations Division	Location: John F Duffy Admin Ctr
Address: 9621 Ridgehaven Court	Address: 9621 Ridgehaven Ct
: San Diego CA 92123	: San Diego CA 921231636
Telephone: (858) 974-2374	Telephone: 858/974-2369
Fax: <input type="text"/>	

Sheriff's Home Corporate Directory

The information contained within these pages is intended for employees of the San Diego's Sheriff staff only.

FROM

TO

FROM

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

INVESTIGATION REPORT

CONFIDENTIAL

INTERNAL AFFAIRS CASE NUMBER: 2014-108.1

DATE: April 10, 2015

COMPLAINANT: SDSO

INVESTIGATOR: Sergeant K. Jones

SYNOPSIS, ANALYSIS, CONCLUSIONS, AND FINDINGS

SYNOPSIS

It is alleged Detectives Mark Karo, [REDACTED] failed to meet standards by not investigating their child abuse cases appropriately. [REDACTED]

ANALYSIS AND CONCLUSION

These failures were first discovered by [REDACTED] who is assigned to the Sheriff's Child Abuse Unit. During his tenure as a detective in this unit, he began to notice certain deficiencies with Detectives Karo, [REDACTED]. These deficiencies ranged from poor investigative practices to an apparent determination to close earnest cases. [REDACTED] believed these accused detectives were not conducting proper investigations which could have allowed the victims to be continually abused. There was also the possibility this Department would be exposed to severe liability disputes.

[REDACTED] stated he brought this to the attention of [REDACTED] His concerns went unanswered. [REDACTED]

[REDACTED] began to document the deficiencies regarding Detectives Karo, [REDACTED]. He went as far as locating and identifying specific cases which were inadequately investigated. [REDACTED] also documented his interactions with [REDACTED] and how his concerns were dismissed.

[REDACTED] ultimately submitted this document and his concerns were believed to be valid. As a result, the Sheriff's Criminal Intelligence Detail (CID) was notified and tasked with completing a case audit for the entire Child Abuse Unit. This audit indicated severe deficiencies

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with Detectives Karo, [REDACTED]. The audit additionally revealed [REDACTED] approved the majority of those poor investigations.

I reviewed all of the cases that were completed by Detectives Karo, [REDACTED] which were listed on the audit. For this investigation, Detective Karo was found to have completed 13 cases which contained deficiencies. [REDACTED]

[REDACTED] All of these investigations are discussed at length in my investigative report.

When evaluating the duties and responsibilities of a child abuse detective, it must be noted these investigations take on a special role within our Department. The victims are children. The safety of the child is the first priority. Children cannot defend themselves and their disclosure is the only measure to stop the abuse. If this disclosure is not properly investigated, the child runs the risk of being victimized further. This cannot happen.

As a sergeant in the Child Abuse Unit, one of the responsibilities that must be met is reviewing and approving the investigations. If one of the cases requires additional work, then the sergeant must return the investigation back to the detective with an explanation. Additional assistance or guidance must be given to the detective if necessary, which ensures future investigations are completed properly. Deficiencies must be noticed and acted upon for the benefit of the victim, detective, and this Department. They cannot be discarded or ignored.

One of the lieutenant's many roles within this unit is to manage and oversee any issues or concerns when they are discovered. This includes their direct intervention in addition to delegating certain responsibilities to their subordinates. When detectives within this unit are accused of completing substandard investigations, all levels of supervision need to be advised and have a direct role when examining the cases. These concerns need to be formally examined to ensure if they are warranted or not. As a second level supervisor, the lieutenant must uphold his sergeants and detectives are performing to this Department's standards.

For this investigation, failure to meet standards will be examined for all of the accused employees. The investigations completed by the accused detectives needed to be reviewed to understand if they were indeed lacking the necessary information which would be reasonably expected. If these investigations were found to be deficient, it needed to be known why the sergeants approved them and if they acted appropriately to ensure this did not continue. Furthermore, the lieutenant needed to be investigated to recognize if he knew about these deficiencies and why the sergeants and detectives continued to operate at a subpar level.

It should be noted for the Synopsis, Analysis, and Conclusions portion of this investigation, this investigator will give an overview of the deficiencies for each detective. All of the 34 deficient cases will not be addressed individually. For that specific information, please refer to my investigation for each case and its discussion.

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It is alleged Detective Mark Karo did not investigate his child abuse cases thoroughly.

When reviewing the cases which were completed by Detective Karo, this investigator located 13 deficient reports. During his assignment in the Child Abuse Unit, Detective Karo believed he was a competent investigator.

KJ: *Now do you believe you were a competent child abuse detective?*

MK: *I did.*

Detective Karo's opinion on this matter changed after his Internal Affairs interview. Detective Karo told this investigator he should have "reached out" more than he did and the cases discussed during our interview should have been investigated more thoroughly.

Every new child abuse detective will have questions when they are assigned to the unit. They are not expected to know all of the details concerning these investigations when they first arrive. This investigator understands that aspect. However, Detective Karo was never denied assistance from the more experienced detectives throughout his assignment. He additionally received formal child abuse training during his tenure. He regularly attended bi-weekly unit meetings where he could have asked specific questions when reviewing his case load. Furthermore, some of Detective Karo's deficiencies just did not meet the standards of using investigative common sense.

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When reviewing his cases, Detective Karo appeared to simply miss fundamental points that an advanced detective should have included. These things ranged from allowing Child Protective Services (CPS) to conduct all of the interviews, to not pursuing suspects and closing cases too quickly. One specific case comes to mind where Detective Karo did not actively pursue a suspect who was believed to be in another state. Detective Karo obtained the address and telephone number for the suspect but failed to follow-up when the suspect did not answer his phone (CN [REDACTED]). Detective Karo suspended the case.

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KJ: *Um, you never requested to fly to Washington to interview the suspect. Why didn't you do that? This Department is very generous in sending our detectives all across the country to talk to people about our cases. I know that first hand.*

MK: *Ah, that probably didn't even cross my mind that it was something I would do.*

This fundamental investigative technique apparently was never thought of according to Detective Karo. Even a basic detective should have known cases of this significance would need to be investigated further. Whether Detective Karo actually did not know this or he used this excuse to cover some sort of laziness, this case did not meet the standards of this Department.

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Another egregious investigation which was discussed was CN [REDACTED]. In this case, a four year old female victim was believed to have been bitten on her arm by the father. Detective

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Karo had two photographs of the bite marks as evidence. Detective Karo closed the case stating there was a lack of any clear evidence of injury along with insufficient evidence to show a crime occurred. When reviewing the photographs, the bite marks were clearly visible. When I showed Detective Karo the photographs again, and when he read what the victim disclosed to CPS, he agreed the injuries were consistent with bite marks. Although this investigator cannot prove the true intentions of Detective Karo and why he closed this case, it most definitely needed additional follow-up and was poorly investigated.

When I reviewed Detective Karo's reports one aspect became abundantly clear. Detective Karo relied too heavily on CPS and allowed them to investigate his cases. When taking this into consideration, one severe liability becomes apparent. If CPS conducted a poor interview or rushed their investigation, Detective Karo's case mirrored this closure because he did not independently do his own work.

When questioning him about a physical abuse case where he allowed CPS to conduct all of the interviews (CN [REDACTED]), the following dialogue took place:

KJ: *Didn't schedule a forensic interview with the victim, can you tell me why you didn't do that?*

MK: *Well I figured, it's the same thing that we talked about on my other cases. I (unintelligible), apparently relied too much on CPS' information.*

KJ: *Okay.*

Detective Karo assumed this was the correct way to close cases because he was trained in this fashion, and his cases were getting approved by his sergeants. According to Detective Karo, the senior detectives told him he could close his cases out in the same manner CPS did. I explained if this was a valid investigative technique, there would be little use for a Child Abuse Unit. Detective Karo did not object. Additionally, the audit was for the entire Child Abuse Unit and it appeared the [REDACTED] accused detectives repeatedly demonstrated this deficiency.

Even though Detective Karo's investigations were getting approved by his sergeants, it cannot be dismissed his investigative techniques were defective. As an advanced investigator on this Department, Detective Karo had to have been aware we do not defer our investigations onto other agencies. This is merely common sense. When addressing this issue regarding a case he closed based upon the interviews completed by the San Diego Police Department (CN [REDACTED]) the following conversation took place:

KJ: *Um, but again, we don't defer our criminal investigations to other agencies, can't just rely on what they said.*

MK: *Okay.*
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I explained it appeared to this investigator, he took the SDPD's interviews to mean this was a "lost investigation" and closed the case.

KJ: *Ah, is that...*

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MK: *I would agree.*

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KJ: *Is that accurate?*

MK: *Yes.*

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KJ: *Okay.*

Due to Detective Karo's failure, this particular case went uninvestigated by this Department.

Not only did Detective Karo fail to righteously pursue suspects in some of his investigations, he also failed to appropriately contact victims as well. Detective Karo and I discussed another case where he closed his investigation after sending the victim a contact letter [REDACTED]. Detective Karo attempted to contact this victim via the telephone with negative results. A contact letter was then mailed with no response. Detective Karo suspended the case. Detective Karo made no attempt to drive to the victim's residence to inquire about his situation.

Driving to the victim's residence for contact is a very basic practice when investigating crimes. The victim's address was documented in his report. One of the benefits of being a detective on this Department is the use of a take home vehicle. This vehicle is provided to the detective for transportation to and from work, in case of callouts, and to use the vehicle for normal work related activities. Detective Karo stated if there was no contact with the victim after calling them, he was told to mail a letter and close the case. I told Detective Karo it was "common sense 101" a detective should go to the victim's residence when they could not get ahold of them. Detective Karo did not argue this point.

One more investigation which was particularly disturbing was [REDACTED]. This case involved a two month old female infant who was shaken 2-3 times by her father. This incident was witnessed by the victim's mother. The infant was taken to Children's Hospital and did not sustain any injuries. After speaking to the victim's mother, Detective Karo learned CPS was working on a parenting plan and closed the case. The suspect was never contacted.

Detective Karo failed to conduct a thorough investigation and did not properly interpret California Penal Code section 273a(a) – Felony Child Endangerment. This section reads:

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be

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injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

This incident was witnessed by the victim's mother. By shaking the infant, it is clearly apparent the father placed the child in a situation where her health was endangered. Many infant victims of shaking sustain permanent brain damage which is irreversible. Even though this infant did not appear to have sustained any injuries, an injury does not need to be inflicted for prosecution. Moreover, it is entirely possible the signs and symptoms of this abuse could have been observed well after the incident took place. Detective Karo never investigated this charge whatsoever.

The following Department policy would be applicable to the allegation above:

2.30 Failure to Meet Standards

Employees shall properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department. Failure to meet standards may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee's position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; absence without leave; unauthorized absence from the assignment during a tour of duty; the failure to submit complete and accurate reports on a timely basis when required or when directed by a supervisor.

The examples this investigator presented above are six out of the 13 deficient cases Detective Karo submitted. Although some are more offensive than others, they point to serious flaws within themselves which cannot be overlooked. Some of these cases had to be reassigned to other detectives when they were discovered. This not only drained Department resources, but allowed the victims in these cases to potentially be victimized further. There is also the potential for this Department to be exposed to unnecessary civil liability.

The burden of proof for an administrative case is "preponderance of the evidence" which is defined as "such evidence, when weighed with that opposed to it, has more convincing force and the greater probability of truth."

Out of the 13 deficient cases I discussed with Detective Karo, he did not object to any of my assessments, and regularly admitted these cases could have been investigated more thoroughly. Detective Karo said he could see now how a lot of these issues were common sense decisions and maybe he lost some of that during his time in the Child Abuse Unit. He wished he had some of this information processed back then to assist him with his cases. Detective Karo appreciated

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this investigator not just asking him questions, but pointing out the various flaws in his investigations and explaining them to him. It is undisputed there is a preponderance of evidence to show Detective Karo did not meet the standards of this Department as a child abuse investigator.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] According to [REDACTED] he approached [REDACTED] numerous times and told him the accused detectives were conducting poor investigations. [REDACTED] allegedly dismissed these concerns and told [REDACTED] to concentrate on his own cases. [REDACTED] purportedly went on to say since [REDACTED] "planted the seed" he and [REDACTED] looked into the problem. [REDACTED] told [REDACTED] their investigation showed there were no issues.

[REDACTED]
[REDACTED]

[REDACTED] s recollection is different. During his Internal Affairs interview, [REDACTED] stated [REDACTED] had issues with [REDACTED] but never mentioned anything to him about [REDACTED] Karo and [REDACTED] did not know the [REDACTED] accused detectives were conducting substandard investigations. According to [REDACTED] concerns had to do with his belief [REDACTED] received easy cases to investigate, while the other detectives received the more complex investigations.

[REDACTED] did not advise [REDACTED] about any deficiencies concerning [REDACTED] Karo, [REDACTED] when he was in the Child Abuse Unit. After [REDACTED] left the unit for [REDACTED], he heard about [REDACTED] report and became aware of his concerns.

[REDACTED] did not recall his conversation with [REDACTED] when he allegedly said an investigation had been conducted and it was determined there were no issues.

KJ: Do you recall this conversation with [REDACTED]?

[REDACTED] I don't remember having that conversation with him.

KJ: Not at all?

[REDACTED] Not at all.

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[REDACTED]

[REDACTED] is claiming [REDACTED] never mentioned anything about [REDACTED] Karo and [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] also made reference to [REDACTED] being advised about these deficiencies with the accused detectives. This was discussed during his Internal Affairs interview. According to [REDACTED], [REDACTED] mentioned these same concerns to [REDACTED] when he was in the unit. [REDACTED] believed [REDACTED] looked into this matter and said the detectives were conducting thorough, "up to par" investigations.

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[REDACTED]: So is he doing an audit of their cases?

[REDACTED] Uh huh.

[REDACTED] did not know exactly what [REDACTED] was looking for, but believed this audit was to examine if the detectives were doing complete investigations. [REDACTED] said, "Their cases are fine."

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[REDACTED]
[REDACTED]
[REDACTED] apparently asked [REDACTED] why he did not address these issues sooner. [REDACTED] told him [REDACTED] was the senior supervisor and he left it up to him. Additionally, [REDACTED] told [REDACTED] he would sometimes return cases back to [REDACTED] for more information, but she would re-submit these cases to [REDACTED] for approval.

KJ: Do you recall making these comments to [REDACTED]?

[REDACTED] Yes I did.

I asked [REDACTED] why he did not address these issues earlier. [REDACTED] told this investigator he did not have a clear view about what needed to be done, and he was a "rookie sergeant" trying to make it in the unit. [REDACTED] said he was trying to "fit in" and was "afraid" of disrupting his working relationship with [REDACTED]. [REDACTED] understood the deficiencies with these [REDACTED] detectives were his responsibility and he accepted that. [REDACTED] trusted [REDACTED] and followed his assessment, but now realized that [REDACTED] complaints were valid.

KJ: So essentially, [REDACTED] is making (unintelligible) these allegations, they're allegations. [REDACTED] is basically telling him, 'be quiet, do your own work' and you went along with it?

[REDACTED] Correct.

[REDACTED] also understood [REDACTED] Karo, [REDACTED] may not have been conducting thorough investigations and discussed this with [REDACTED] and [REDACTED]. This very issue was discussed during [REDACTED]'s Internal Affairs interview. [REDACTED] said the "bottom line" to this was [REDACTED] and [REDACTED] told him there was nothing wrong with the cases that were investigated by [REDACTED] Karo, [REDACTED] and [REDACTED].

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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A brief summary of the cases I discussed with [REDACTED] will follow.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The final case we discussed was CN [REDACTED] This case was investigated by Detective Karo. This investigation dealt with a two month old female infant who was shaken by her father several times. The infant was taken to Children's Hospital and there were no injuries observed. Detective Karo closed the case as Department Closure.

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I brought up Detective Karo's failure to interview the suspect in a shaken baby case. I asked why this report was not returned back to Detective Karo due to this deficiency. [REDACTED] [REDACTED] did not know.

I went on to explain the suspect needed to be interviewed along with the mother in this case who witnessed the incident. Witnesses in these cases are rare. When the opportunity arises, the detective is obligated to extensively interview key witnesses who are associated with crimes.

I explained this case was criminal. If this incident did in fact occur, an injury did not need to be inflicted for criminal prosecution. The father placed the infant in a situation where her health was endangered. This alone was a felony.

[REDACTED] Okay. So you could charge it. Okay.

I asked why this case was not returned so it could be criminally prosecuted. [REDACTED] [REDACTED] could not recall what he was thinking at the time he was reviewing these investigations. He could not explain or answer for his decisions during that specific time.

[REDACTED] [REDACTED] believed based upon Detective Karo's interview with the mother and her decision to obtain a restraining order, this might have explained his reasoning to close the case.

[REDACTED] Yeah, looking at it now, hearing your explanation, I, more work could have been done.

[REDACTED] [REDACTED] did not have any further comments or questions regarding this investigation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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for [REDACTED]. [REDACTED] told [REDACTED] he would be addressing his concerns, but needed a little time due to being the sole sergeant and having a heavy workload.

I asked [REDACTED] why he did not address these issues earlier. [REDACTED] told this investigator he did not have a clear view about what needed to be done, and he was a "rookie sergeant" trying to make it in the unit. [REDACTED] said he was trying to "fit in" and was "afraid" of disrupting his working relationship with [REDACTED]. [REDACTED] understood the deficiencies with these three detectives were his responsibility and he accepted that. [REDACTED] trusted [REDACTED] and followed his assessment, but now realized that [REDACTED] complaints were valid.

KJ: So essentially, [REDACTED] is making (unintelligible) these allegations, they're allegations. [REDACTED] is basically telling him, 'be quiet, do your own work' and you went along with it?

[REDACTED] Correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

According to [REDACTED] he was aware [REDACTED] was looking at the other detectives' investigations in NetRMS.

KJ: Do you know any idea why he would be looking at other people's cases?

[REDACTED] (Pause) Ah, no. (Unintelligible) because I even asked him that when, when, I had a meeting with him. 'Why are you looking at other people's cases?' And at that time, he told me, cause they're not doing their job.

[REDACTED]

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According to [REDACTED], [REDACTED] mentioned these same concerns to [REDACTED] when he was in the unit. [REDACTED] believed [REDACTED] looked into this matter and said the detectives were conducting thorough, "up to par" investigations.

MB (Michael Blevins): *So is he doing an audit of their cases?*

[REDACTED] Uh huh.

[REDACTED] did not know exactly what [REDACTED] was looking for, but believed this audit was to examine if the detectives were doing complete investigations. [REDACTED] said, "Their cases are fine." [REDACTED] appeared to trust [REDACTED] judgment and did not independently look into these cases.

I asked [REDACTED] if he ever conducted an audit on the child abuse cases. [REDACTED] told me yes. I asked when this audit took place. [REDACTED] said it was after [REDACTED] brought in his "manifest." This was approximately 1-2 months before [REDACTED] was removed from the unit, and [REDACTED] was already working in [REDACTED].

During this time, [REDACTED] had already been transferred and Lieutenant Duckworth was now his supervisor. Lieutenant Duckworth asked [REDACTED] to conduct an audit concerning the child abuse cases.

I asked [REDACTED] to tell me what his audit consisted of. [REDACTED] told me he looked into the cases [REDACTED] mentioned in his document, and then he went back further for those detectives. Sergeant Ting was newly assigned to the Child Abuse Unit so he assisted [REDACTED] with this audit. [REDACTED] believed he inspected [REDACTED] cases and Sergeant Ting reviewed [REDACTED] investigations.

[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]

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[REDACTED]

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Every detective in the Child Abuse Unit should have the skills to investigate any case when it is assigned to them. This is a specialized unit. [REDACTED]

[REDACTED] For the interest of time, I did not review all 23 deficient cases that [REDACTED] approved. During his Internal Affairs interview, I critiqued six cases that [REDACTED] believed were thorough investigations. The following is a summary of these cases along with [REDACTED] explanations.

We began by looking at CN [REDACTED]. In this case, Detective Karo located his suspect in the state of Washington. Detective Karo obtained the suspect's address and telephone number. After several attempts to contact the suspect via the telephone went unanswered, Detective Karo suspended the case.

I asked [REDACTED] why he did not return this case to Detective Karo and instruct him to fly to Washington for a suspect interview. [REDACTED] said things were "a little different" as to when he and I worked there. [REDACTED] was under the impression the Child Abuse Unit did not have the funds to fly a detective to this location. I asked if he was told the unit did not have the appropriate funding. [REDACTED] told me in these types of cases, the outside agency had to contact the suspect and if they were successful, he could send a detective to their location for an interview.

In CN [REDACTED] a four year old female victim sustained several bite marks to her arm. Detective Karo obtained photographs of these injuries which were clearly visible. Detective Karo closed the case stating there was a lack of evidence to support a crime had occurred. Child Protective Services (CPS) conducted all of the interviews for this case.

I asked why he did not return this case back to Detective Karo and tell him to conduct the proper interviews. CPS conducted all of the interviews in this investigation. [REDACTED]

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[REDACTED]

I showed [REDACTED] [REDACTED] the photos of the bite marks and defined how they were overlooked. [REDACTED] [REDACTED] agreed and said he did not believe he even looked at the photos which were attached and only read the narrative of the report. Normally, [REDACTED] [REDACTED] would review all of the attachments when a case was turned in, however, he must have missed this opportunity.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]

[REDACTED] said [REDACTED] and [REDACTED] came highly recommended and they were performing at a competent level. They both had an investigative background and he trusted their expertise and judgment.

[REDACTED] also believed this to be true about [REDACTED] Karo, [REDACTED]
They all came highly recommended and he believed they were doing an excellent job as child abuse detectives.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

When determining if [REDACTED] was advised there could be serious deficiencies with Detectives Karo, [REDACTED] this was relatively easy to determine.

KJ: *Were you ever made aware that [REDACTED] was looking at other detectives' follow-ups in NetRMS?*

[REDACTED] Yes.

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I asked when he was first made aware of this. [REDACTED] stated it was shortly before he was transferred to rural. [REDACTED] and [REDACTED] entered his office and told him they were having a hard time accessing cases in NetRMS. They explained someone was looking at

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the cases and leaving them open. [REDACTED] [REDACTED] assured them it was not him. Since the sergeants could not access these reports, they could not subsequently approve them. [REDACTED] and [REDACTED] contacted NetRMS and learned it was [REDACTED] [REDACTED] who was opening these cases so they could be viewed. The cases were closed by NetRMS and eventually approved.

[REDACTED] [REDACTED] asked [REDACTED] [REDACTED] and [REDACTED] what was going on. He learned there was a joke in the office about who had the most open cases. The sergeants told him [REDACTED] [REDACTED] did not like the fact he had the most open cases and he was trying to "deflect" his situation. [REDACTED] [REDACTED] was told [REDACTED] [REDACTED] was picking on [REDACTED] Karo, [REDACTED] [REDACTED] by telling them they needed to investigate their cases like he would.

KJ: *So he was making it a point saying that their investigations were lacking? Is that right?*

[REDACTED] [REDACTED] said that was what it seemed like. According to [REDACTED] [REDACTED] [REDACTED] [REDACTED] did not advise the sergeants about this, but went to the detectives themselves. [REDACTED] [REDACTED] told [REDACTED] [REDACTED] that [REDACTED] [REDACTED] was approaching the detectives and confronting them about this directly.

[REDACTED] [REDACTED] asked [REDACTED] [REDACTED] and [REDACTED] if this was true, and if [REDACTED] Karo, [REDACTED] [REDACTED] had any deficiencies. [REDACTED] [REDACTED] and [REDACTED] both told [REDACTED] [REDACTED] their cases were fine and they did not have any deficiencies.

When these issues about [REDACTED] [REDACTED] were brought to his attention, [REDACTED] [REDACTED] believed what was told to him by his sergeants. [REDACTED] [REDACTED] and [REDACTED] had previously told him [REDACTED] [REDACTED] was "over investigating" his cases and there were no issues with the other detectives.

[REDACTED] *So, so I'm, you know, I got two subject matter experts that I respect way more than I do [REDACTED] [REDACTED] and they see the same things their predecessors saw, and I have no reason to believe otherwise.*

I asked [REDACTED] [REDACTED] if he personally met with [REDACTED] [REDACTED] to discuss his concerns. [REDACTED] [REDACTED] answered no. [REDACTED] [REDACTED] said he obviously needed to address [REDACTED] [REDACTED] "exceeding his authority" and if he wanted to be a sergeant he needed to go out and get "stripes." If [REDACTED] [REDACTED] believed there were deficiencies with his fellow detectives, he needed to address this with his supervisors and the sergeants could determine if they were valid or not. [REDACTED] [REDACTED] said it was not [REDACTED] [REDACTED] place to be a sergeant and he needed to work on his high case load.

KJ: *Apparently he made his concerns aware to the sergeants, they looked into it according to what they told you and everything was fine?*

[REDACTED] *That's exactly, yes.*

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FINDINGS

This complaint alleges Detective Mark Karo did not complete his investigations thoroughly. Upon reviewing his investigations, Detective Karo exhibited various deficiencies and ultimately submitted 13 substandard investigations. Detective Karo admitted his cases could have been investigated more competently. This allegation against Detective Karo for failing to meet the standards of his position, as it relates to Sheriff's Policy and Procedures, Section:

2.30 Failure to Meet Standards

is **SUSTAINED**.

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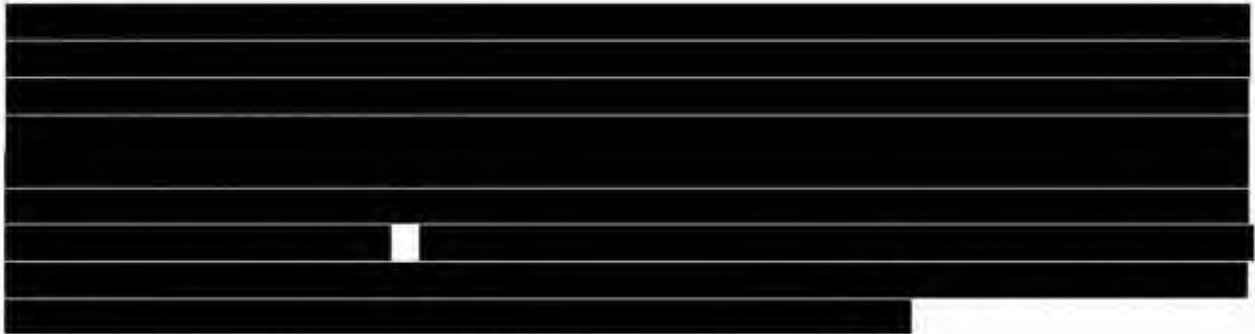
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WITNESS LIST

INTERNAL AFFAIRS CASE #2014-108.1

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
Maureen Perkins Detective	9621 Ridgehaven Ct. San Diego, CA 92123	[REDACTED]
Aaron Meleen Sheriff's Sergeant	8811 Cuyamaca Street Santee, CA 92071	[REDACTED]
Rick Castro Detective	9621 Ridgehaven Ct. San Diego, CA 92123	[REDACTED]

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SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

INTERNAL AFFAIRS UNIT

INVESTIGATION REPORT

CONFIDENTIAL

INTERNAL AFFAIRS CASE NUMBER: 2014-108.1

DATE: October 27, 2014

COMPLAINANT: S.D.S.D.

INVESTIGATOR: Sergeant K. Jones

INVESTIGATION

On July 14, 2014, Lieutenant Harvel assigned this complaint to me for investigation. I reviewed the complaint form and accompanying documents. All of the interviews in this investigation were digitally recorded and will be maintained with the Internal Affairs file. The following are in essence synopses of the interviews. For exact and complete details of the interviews, please refer to the recordings.

It is being alleged Detectives Mark Karo, [REDACTED], and [REDACTED] failed to meet their standards while working in the Child Abuse Unit. These failures range from lackluster investigative practices to an apparent determination to close earnest cases.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

These failures were first discovered by [REDACTED] who was assigned to work in the Sheriff's Child Abuse Unit. Based upon a document he authored, the Sheriff's Threat Assessment Group (TAG) began an audit for the entire unit. Numerous errors were found in the investigations completed by Detectives Karo, [REDACTED], and [REDACTED]. As for this investigation, the most egregious or presumed purposeful mistakes were concentrated on. These cases will be attached to this investigation for review.

I began my investigation by reviewing [REDACTED] document dated June 10, 2014. This document detailed [REDACTED] recollection of events with regards to the failures of the above mentioned detectives and sergeants. There was a second document dated June 18, 2014 which further documented Detective Karo's behavior. Both of these documents are attached to my investigation for review.

On October 9, 2014, at approximately 1310 hours, I met with [REDACTED] for an interview. The interview was conducted in the office of Internal Affairs. Prior to the

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interview, [REDACTED] had the opportunity to review the four sections of the Rules of Conduct as they relate to Insubordination, Intervention, Departmental Reports, and Truthfulness. [REDACTED] understood the Rules of Conduct and did not have any problems following these procedures. I recorded our interview using a digital voice recorder. [REDACTED] was aware of this recording. Below is a synopsis of our interview. For exact details, please refer to the attached recording.

STATEMENT OF [REDACTED]

[REDACTED] has been employed with the San Diego County Sheriff's Department for approximately [REDACTED] years. [REDACTED] is currently assigned to the Sheriff's Child Abuse Unit. He has been at this assignment for approximately [REDACTED] years. [REDACTED]

[REDACTED] told me he authored the document dated June 10, 2014. He also wrote the document which was dated June 18, 2014. Both documents were discussed during our interview.

[REDACTED] affirmed these documents memorialized the deficiencies of Detectives Karo, [REDACTED] and [REDACTED]. The two papers also listed [REDACTED] and [REDACTED] as failing to meet standards by properly investigating these deficiencies when brought to their attention. When asked about [REDACTED] [REDACTED] stated he did not speak to him specifically about these detectives or sergeants. [REDACTED] mentioned he would bring up issues with regards to their unit needing more staffing, but he did not discuss any detective or sergeant specific faults with [REDACTED].

I asked [REDACTED] why he decided to document these employees and their performances. [REDACTED] said he became frustrated and concerned for the Department because they were supposed to be helping the children who were victimized. [REDACTED] stated these deficiencies were a reflection on their unit and children would continue to be victimized because they were not working their cases properly.

I asked what the training process was like when a new detective was assigned to the unit. [REDACTED] told me there were no training guidelines installed. [REDACTED] stated he brought this up numerous times with the sergeants and the lieutenant because the new detectives were not being taught properly and their cases were "falling through the cracks." Since this was an advanced investigative position, the detectives were supposed to have already acquired these investigative skills. [REDACTED] told me since Lieutenant Duckworth has been assigned to the Child Abuse Unit, a training program has been implemented.

[REDACTED] said he made an orientation packet for new detectives when they were assigned to the Child Abuse Unit, and offered to go through this packet with Detective Karo. Detective Karo told him he was too busy. [REDACTED] could not recall if he offered this same assistance to [REDACTED] or [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] made a template for the unit's reports which included each portion of the background and criminal history information needed during the investigation. This would ensure the important information would be attached to their reports and investigated. When [REDACTED] approached [REDACTED] about having the detectives use this template, [REDACTED] said he would not suggest or require the detectives to include this information. [REDACTED] did not say why.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The next series of questioning had to do with a potential call out regarding a three month old infant who sustained a fractured rib and bruising (# [REDACTED]). This incident occurred on Friday, December 27, 2013. Based upon these injuries and circumstances, an immediate response was warranted. Detectives Karo, [REDACTED] and [REDACTED] were the only detectives working in the office that day. [REDACTED] [REDACTED] initially gave the case to Detective Karo for a response. Detective Karo explained he just received four cases and said [REDACTED] [REDACTED] and [REDACTED] were also working and were available. [REDACTED] [REDACTED] decided not to send anyone and waited until the following Monday to assign Detective Bloch the case.

[REDACTED] [REDACTED] did not know why [REDACTED] [REDACTED] declined to send a detective out immediately. [REDACTED] [REDACTED] believed [REDACTED] [REDACTED] knew [REDACTED] [REDACTED] and [REDACTED] could not work a case at this level due to their incompetency.

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[REDACTED]

[REDACTED] also believed [REDACTED] and [REDACTED] went to [REDACTED] to advise him about the things he was mentioning and about the inadequate work being done by Detectives [REDACTED] and Karo. Although [REDACTED] could not prove this belief, he mentioned the possibility of this happening which led to his meeting with the sergeants inside the lieutenant's office. [REDACTED] never approached [REDACTED] personally to discuss these issues.

On February 26, 2014, [REDACTED] had a conversation with Sergeants [REDACTED] and [REDACTED]. [REDACTED] mentioned a detective in the Child Abuse Unit who had a low case count was not a good sign. [REDACTED] told him he knew what he was talking about. [REDACTED] went on to say since [REDACTED] "planted the seed" he and [REDACTED] looked into the problem. [REDACTED] told [REDACTED] their investigation showed there were no issues.

[REDACTED] believed [REDACTED] told him this to appease him because it would be obvious if someone truly looked into these detectives, their investigations would prove to be lacking.

[REDACTED]

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I asked if Detectives [REDACTED] [REDACTED] and Karo ever went to any specialized training while in the unit. [REDACTED] [REDACTED] told me he went to either advanced physical or advanced sexual assault training with both [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. [REDACTED] could not recall going to any training with Detective Karo.

[REDACTED]
[REDACTED]
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[REDACTED]

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The remaining portion of this document dealt with several cases [REDACTED] [REDACTED] found considerable faults with which were completed by Detectives [REDACTED] [REDACTED] and Karo. I did not ask [REDACTED] [REDACTED] any questions concerning these cases due to my independent review of them. Two of these cases were reassigned to [REDACTED] [REDACTED] and he was currently in the process of revisiting them.

[REDACTED] [REDACTED] and I began to review his second document, dated June 18, 2014. One important segment of this document had to do with Detectives Meleen and Karo.

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The interview was concluded at approximately 1452 hours with an order not to disclose.

On October 15, 2014, at approximately 1408 hours, I met with Detective Maureen Perkins for an interview. The interview was conducted at the office of Internal Affairs. I recorded the interview using a digital voice recorder. Detective Perkins was aware of the recording. Before the interview, Detective Perkins was given the four sections of the Rules of Conduct as they pertained to Insubordination, Intervention, Departmental Reports, and Truthfulness. Detective Perkins understood these sections and did not have any issues following these procedures. Below is a synopsis of our interview. For exact details, please refer to the attached recording.

Detective Perkins has been employed with the San Diego County Sheriff's Department for approximately 24 years. She is currently assigned as a detective in the Sheriff's Elder Abuse Unit. Detective Perkins has been at this assignment for approximately six years.

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[REDACTED]

This concluded my interview with Detective Maureen Perkins. The interview was concluded at approximately 1418 hours with an order not to disclose.

INVESTIGATION: (Continued)

On December 23, 2014, at approximately 0949 hours, I interviewed Detective Aaron Meleen. The interview was conducted in the office of Internal Affairs. I recorded our interview using a digital voice recorder. Detective Meleen was aware of the recording. Prior to the interview, I provided Detective Meleen with the four sections of the Rules of Conduct as they pertained to Insubordination, Intervention, Departmental Reports, and Truthfulness. Detective Meleen understood these sections and did not have any issues following these procedures. Below is a synopsis of my interview. For exact details, please refer to the attached recording.

STATEMENT OF WITNESS: DETECTIVE AARON MELEEN

Detective Meleen has been employed with the San Diego County Sheriff's Department for approximately nine years. He is currently assigned to the Sheriff's Sexual Assault Unit. Detective Meleen began this assignment in April 2014. Detective Meleen has known Detective Karo for approximately six years. Their work history went back to when they worked at the San Marcos Patrol Station together. When they were assigned their particular detective assignments at Ridgehaven, they would have daily interactions with each other while at work due to being in the same office setting.

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Detective Meleen accompanied Detective Karo on a child abuse forensic interview to observe what the process was like. Detective Meleen could not recall the exact date, but told me he only went to one forensic interview with Detective Karo.

KJ: *Did Detective Karo make the comment, 'I hope we don't get a disclosure?'*

AM: *Yes.*

Detective Meleen understood this comment to mean Detective Karo did not want this particular case to "spiral or spider web" to the point of having to conduct further interviews with those involved. Detective Meleen asked Detective Karo why he made this comment. Detective Meleen thought if there was a definite disclosure by the victim; it would be beneficial to the case because the suspect could be arrested. Detective Meleen also believed if there was no disclosure, that was a positive thing because that meant a child had not been victimized. Detective Karo responded he had a caseload and wanted to close this case out.

Detective Karo went on to explain if there was no disclosure, he could close the case out that day. If he obtained a disclosure, it would create more work for him to do with potentially having additional victims and interviews. Detective Meleen took this to mean Detective Karo was simply being lazy. Detective Meleen's belief was:

AM: *Yeah, because there was, there was a full conversation about it and I can't remember word for word what we had, but, that was the, that's the take that I got from it is, really you don't, you don't want a disclosure because you don't want to do your job?*

This was the only forensic interview Detective Meleen went to with Detective Karo. Detective Meleen believed Detective Karo was a competent detective because when they talked about his caseload, Detective Karo told him he was caught up and everything appeared to be fine.

I asked Detective Meleen about the apparent division between the Sexual Assault Unit and the Child Abuse Unit. He stated it was a "running joke" that the Sexual Assault Unit was the junior varsity team and the Child Abuse Unit was the varsity team. When Detective Meleen would ask Detective Karo to go out to lunch or for a cup of coffee, Detective Karo would tell him they could not do that. When Detective Meleen would ask other detectives the same thing, they would accept his offer. This was presumed to be a joke but Detective Meleen also believed Detective Karo was somewhat serious about this.

Detective Meleen did not have any knowledge about [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Other than their occasional greetings in the workplace, he did not interact with them.

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Detective Meleen said he was approached by [REDACTED] [REDACTED] [REDACTED] who wanted to discuss Detective Karo's work ethic. [REDACTED] [REDACTED] said he conducted an investigation and the results were going to be passed along to the command. Detective Meleen stated it was "common knowledge" Detectives Karo and [REDACTED] did not get along. The interview was concluded at approximately 1001 hours with an order not to disclose.

INVESTIGATION: (Continued)

This investigator reviewed the audit which was conducted by the Sheriff's Criminal Intelligence Detail. The audit was conducted for the entire Child Abuse Unit. As a result of this audit, repetitive deficiencies were found to exist for Detectives Karo, [REDACTED] and [REDACTED]. The following cases will be broken down by detective, case overviews, and the apparent deficiencies. The following cases will be discussed with Detective Karo upon his Internal Affairs interview. Although this is an administrative investigation, the victims in these cases shall be afforded the same privileges under 293 PC. Their information shall not be released to the public.

Detective Mark Karo

Deficient Cases

[REDACTED]

An anonymous reporting party (RP) advised Child Protective Services (CPS) that a two year old female named [REDACTED] was living with her grandparents in Ramona. It was alleged the grandparents abused methamphetamine. The RP also alleged their four year old step-granddaughter would visit [REDACTED] at the residence and was sexually abused by the grandfather.

CPS visited the residence and determined there were no signs of drug abuse. CPS interviewed [REDACTED] who did not disclose or showed signs of abuse. CPS determined the RP was most likely a disgruntled former neighbor of the grandparents. This case was closed as Unfounded by Detective Karo.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation and relied on their interviews. Although each case is different, Child Abuse detectives do not defer their criminal investigations to another agency. Each CPS social worker is different with their interviewing skills and investigative experience. Sadly, some CPS social workers are much better than others.

He did not make any contact with the parties nor visit the home. Detective Karo did not conduct a criminal history on the grandfather, who had previous arrests for possession of

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controlled substances and hypodermic needles. The grandfather also had a suspended license for failing to appear.

There was no follow-up completed to ascertain who the RP was. This could have been easily determined if the grandfather was interviewed due to the possibility the RP was a previous neighbor. Also, the RP alleged their step-granddaughter visited the home and was molested by the grandfather. This allegation was never investigated whatsoever.

[REDACTED]

A four year old female disclosed her grandfather pulled his pants down and exposed his genitals. CPS was notified and evaluated the case out. The grandfather now lives in Live Oak, California. The victim's mother declined prosecution but was concerned for her brother's children with whom the grandfather now lives with. Detective Karo closed the case out as No Prosecution.

Deficiencies:

Detective Karo did not conduct a criminal history for the grandfather. More importantly, Detective Karo did not notify the proper authorities in Live Oak, California as there were concerns by the victim's mother those children could be at risk. Detective Karo should have completed a suspected child abuse report and ensured its arrival to Live Oak. At a minimum, Detective Karo should have made contact with the Sutter County Sheriff's Department to advise them about this incident.

Detective Christi Licudine has been reassigned this case. Detective Licudine has completed additional interviews, conducted a forensic interview on the victim, completed a controlled call with the suspect, and flew to Live Oak to interview the suspect in person. Her investigation is still pending.

[REDACTED]

An eight year old female disclosed she takes her clothes off and her ten year old female friend licks her genitals. This occurred when the girls had a sleepover. CPS was assigned the case and closed it out as Unfounded. Based upon the CPS investigation, Detective Karo additionally closed his case as Unfounded.

Deficiencies:

Detective Karo relied on CPS for his investigation. Both parents should have been contacted where they could have had the forensic interview process explained to them. Although 26 PC issues are relevant, if this incident did occur, the proper counseling could have been offered to the children. Additionally, if the ten year old female was forensically interviewed and disclosed being a victim herself, this would explain the sexualized behavior and a criminal investigation could have been initiated.

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This case has been reassigned to Detective Licudine. She subsequently made contact with the victim's mother. The victim's mother declined to have her daughter interviewed due to it appearing she forgot about the incident.

[REDACTED]

A five year old female disclosed her twelve year old step-brother pulled her under the bed and tried to put his "pee-pee" on her "pee-pee." CPS was assigned this referral and interviewed all the parties involved. CPS concluded there were some sexualized behavior, however, it was not a criminal matter. CPS closed their referral as Unfounded. Detective Karo subsequently closed his investigation as Unfounded.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation based upon their interviews. Detective Karo did not interview or contact any of the involved parties. As a result of this substandard investigation, Detective Licudine had to be reassigned this case. Detective Licudine contacted the victim's mother and obtained a forensic interview for the victim. She also interviewed the suspect in person along with the suspect's mother.

[REDACTED]

A 17 year old female disclosed that approximately two years ago, a known suspect gave her marijuana and sexually abused her by rubbing his penis on her vagina. The suspect was believed to be in his thirties. The victim expressed if the suspect was located, she desired the case to be sent to the District Attorney's Office for prosecution. Detective Karo determined the suspect lived in the state of Washington. Detective Karo contacted Detective Anglin who works for the Jefferson County Sheriff's Office. Detective Karo obtained the suspect's address and telephone number. Several attempts to contact the suspect via the telephone were unsuccessful. Detective Karo suspended the case.

Deficiencies:

Detective Karo could have obtained a photograph of the suspect for identification purposes to be viewed by the victim. Detective Karo never requested permission to fly to the state of Washington to contact the suspect for an interview. Arrangements could have been made with the Jefferson County Sheriff's Office to use a ruse to see if this was a current address. If it was, measures could have been taken to contact the suspect in person and furthermore, request a polygraph and continue with the investigative questioning.

Detective Karo could have obtained the cellular phone's subscriber information and potentially written a search warrant or had the device located by its ping service.

Detective Karo simply called the cellular number and suspended his case when no one answered.

[REDACTED]

An anonymous RP alleged a 14 year old male was living with his mother who was a prostitute and drug addict. It was reported the mother was providing this juvenile marijuana and he was left unsupervised at home. The residence also contained drug paraphernalia inside. The RP alleged the juvenile tried to touch their son's penis while inside the residence. Due to the RP being anonymous, Detective Karo closed the case as Department Closure.

Deficiencies:

This could potentially be a felony child endangerment case. Detective Karo did not respond to the residence or contact anyone involved during his investigation. The prospect of this being a criminal case was never investigated. Detective Karo did not document in his report if a criminal history was conducted on the victim's mother.

[REDACTED]

A four year old female victim returned from a visit with her father. The victim's mother noticed what appeared to be a bite mark on the victim's arm. When CPS interviewed the victim, the bruising had already faded away, however, the victim's mother took photos of the bite marks beforehand.

The victim told her mother she was trying to gain the attention of the father when he became upset and bit her. The victim later disclosed to CPS she was playing rough with her father when he bit her. The victim's mother emailed the photos to Detective Karo. Detective Karo closed the case stating there was a lack of any clear evidence of injury along with insufficient evidence to show a crime had occurred.

Deficiencies:

Detective Karo did not document any criminal history for the suspect. Detective Karo allowed CPS to conduct all the interviews and did not contact anyone. There was never an attempt to conduct a forensic interview on the victim, nor did he contact the victim's mother to explain this process.

The most obvious deficiency regarding this case was Detective Karo had two photographs of the bite marks which were provided to him by the victim's mother. He discarded these photographs saying they were unclear and he was unable to discern obvious marks or bruising. When reviewing these photographs, this investigator clearly observed bruising which was consistent with bite marks on the victim's arms. Detective

Karo additionally failed to consult with a doctor who specializes in child abuse cases so these injuries could be reviewed.

[REDACTED]

A 13 year old victim was arguing with his nine year old brother. When the victim's father intervened, he used a closed fist to "bump" the victim's chest to gain his attention. The victim lowered his head causing the father to hit his face. The victim sustained a broken nose. CPS interviewed all the parties involved and determined this was an isolated incident and was accidental. Detective Karo closed the case as Department Closure.

The case was subsequently returned to Detective Karo so a forensic interview could be obtained from the victim. Detective Karo was reassigned from the Child Abuse Unit prior to completing this interview.

This case was reassigned to Detective Sossaman. A forensic interview was conducted along with other witness and suspect interviews. Medical Records were obtained and it was learned the victim sustained a broken wrist from another incident. The case has been sent to the District Attorney's Office for prosecution.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation and closed the case as Department Closure. Detective Karo did not contact anyone or conduct any investigative interviews. He never scheduled a forensic interview for the victim until the case had been returned to him citing this error. Detective Karo never obtained the victim's medical records which would have documented previous injuries, nor did he consult with a doctor who specializes in physical abuse cases.

This case signifies the importance of conducting independent interviews instead of permitting CPS to conduct the entire investigation. CPS stated this injury was an isolated incident and was accidental. CPS was undoubtedly mistaken and completely overlooked the victim's complete medical history. As a result, the suspect was allowed to escape prosecution and could have continued the abuse. As a result of Detective Sossaman's complete follow-up investigation, the District Attorney's Office now can review this case for prosecution.

[REDACTED]

A four year old victim tried to touch another child's buttocks at his preschool. When asked how he learned this behavior, the victim said his mother's boyfriend pulls his pants down and touches him in the front and back. A forensic interview was conducted and the victim recanted his disclosure. The victim said his mother got angry with him for saying

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this and told him the suspect only plays with him with his toys. Detective Karo suspended the case.

Deficiencies:

Detective Karo did not interview the mother of the victim about possibly coaching her child to protect the suspect. A four year old child does not have the maturity or vocabulary to say he was coached into saying something. However, when a young child says his mother got angry with him for saying something, and the mother told the child the suspect only plays with him with his toys, this has obvious indications of coaching. Detective Karo never investigated this possibility.

The mother also disclosed being touched inappropriately by her step-father who sometimes cares for her own children. Detective Karo never investigated this disclosure and never had the additional children forensically interviewed to determine if they were in fact victims of sexual abuse. As a result, children were left in a dangerous situation where sexual abuse could have been occurring.

[REDACTED]

A 14 year old victim disclosed her grandfather inserted his finger into her vagina approximately four years ago. The suspect also touched her breasts underneath her clothing. There was an additional incident where the suspect touched the victim's vaginal area underneath her clothing as well. The victim was worried about how her family was going to react to her disclosure so she declined prosecution. The victim was willing to do a controlled call. The victim admitted to lying about "stupid stuff" in the past, but was not lying about this. The SDPD initiated this investigation but it was learned the incident occurred in our jurisdiction. The case was forwarded to Detective Karo who closed the case as Department Closure.

Deficiencies:

Detective Karo did not interview anyone in this investigation. He did not re-contact the victim to discuss her case. Detective Karo could have offered to meet with the family to discuss the victim's concerns. The victim previously stated she was willing to conduct a controlled call with the suspect, however, Detective Karo did nothing to follow-up on this. Detective Karo took the SDPD interviews to mean this case was lost and did nothing to encourage the victim to prosecute the suspect.

Detective Karo closed the case stating the victim did not desire prosecution, made reference to her mental health history, and lack of witnesses to the events. Someone's mental health history does not mean they are not a victim of sexual abuse. Some victims develop mental health issues as a result of being victimized.

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Additionally, most child abuse cases lack witnesses. It is the detective's job to use various investigative techniques to develop a case sufficient for prosecution. Merely referencing a lack of witnesses for closing a case is unacceptable.

[REDACTED]

An 18 year old victim disclosed he was sodomized by a co-habitant approximately 8-10 years ago. The suspect's name and date of birth was documented in Detective Karo's report. Detective Karo documents he called the victim six times with negative results. Detective Karo mailed a contact letter to the victim which went unanswered. Detective Karo suspended the case.

Deficiencies:

Upon review of Detective Karo's case log, three calls were documented, not six. Detective Karo did not drive to the victim's residence to attempt to contact him. Driving to the victim's residence for contact is a very basic practice when investigating crimes. The victim's address was documented in his report. He never explored various database checks on the victim nor the suspect during his investigation. Detective Karo merely sent a contact letter to the victim after leaving several messages. The case was suspended without any additional follow-up.

[REDACTED]

It was alleged a 17 year old victim sustained a broken nose by his father after it was learned he went to a party and was drinking. CPS investigated the case and closed it Unfounded after the victim said he broke his nose by wrestling with friends. The referral states the father hit the back of the victim's head while he was facing a wall. The father used enough force to break the victim's nose. When the victim went to school, he was questioned by the school staff about his nose. The victim told the school staff he walked into a door. Detective Karo closed the case by Department Closure.

Deficiencies:

Again, Detective Karo trusted CPS to conduct his investigation. Detective Karo did not contact or interview anyone. Being that the victim told two different stories, both dismissing his father as the suspect, this case should have been investigated to its full extent. Additionally, the suspect's criminal history does not appear to have been explored, and he was never interviewed to discuss his son's conflicting statements. On its face, it appears the father could have inflicted this injury and told his son not to implicate him.

CPS also appeared to reject the conflicting statements, which only confirms a lack of investigative thoroughness on their part. This is another reason why a case agent should not defer their investigations to another agency.

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[REDACTED]

A two month old female infant was shaken 2-3 times by her father who yelled, "What do you want from me?" This was witnessed by the victim's mother. The infant was taken to Children's Hospital and did not sustain any injuries. Detective Karo could not contact the CPS social worker and spoke to the infant's mother. Detective Karo learned the mother is seeking a divorce from the father and CPS is working with them on a parenting plan. Detective Karo closed the case Department Closure.

Deficiencies:

This was another upsetting investigation. Detective Karo did not conduct any investigative interviews on a shaken baby case. The suspect was never contacted, nor was his criminal history probed. This case could have gone to the District Attorney's Office for criminal prosecution. The following California Penal Code section should have been applied:

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

This incident was witnessed by the victim's mother. By shaking the infant, it is clearly apparent the father placed the child in a situation where her health was endangered. Many infant victims of shaking sustain permanent brain damage which is irreversible. Even though this infant did not appear to have sustained any injuries, an injury does not need to be inflicted for prosecution. Detective Karo never investigated this charge whatsoever.

STATEMENT OF ACCUSED: DETECTIVE MARK KARO

On January 6, 2015, at approximately 1841 hours, I interviewed Detective Mark Karo. Detective Karo was represented by his attorney, Fern Steiner. Sergeant Brian Nevins, who is assigned to Internal Affairs, was also present. The interview was conducted within the office of Internal Affairs. I recorded the interview using a digital voice recorder. Detective Karo was aware of this recording.

Before the interview began, Detective Karo was given a copy of the complaint form. Detective Karo was allowed to review the four sections of the Rules of Conduct as they pertained to Insubordination, Intervention, Departmental Reports, and Truthfulness. Detective Karo did not have any issues following these procedures. After reading

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Detective Karo the Garrity Admonishment, he was ordered to answer my questions fully and truthfully.

Detective Karo has been employed with the San Diego County Sheriff's Department since March 17, 2006. He is currently assigned as an area detective covering the Rancho San Diego beat. His current duties and responsibilities include conducting follow-up investigations which do not meet a specialized criterion.

Detective Karo's work history includes:

- 1) Area Investigations (Current)
- 2) Child Abuse Investigator
- 3) Traffic Investigator
- 4) Patrol
- 5) Court Field Services

Detective Karo told me he was a Traffic Reconstructionist when assigned to traffic duties, which also qualifies him for advanced investigations. I asked what kinds of investigative practices he used while assigned to traffic. Detective Karo would respond to collision scenes to determine who was at fault, DUI enforcement to include prosecution, and investigate hit and run accidents. Detective Karo would also be expected to search for hit and run suspects and locate them for prosecution.

Detective Karo has had experience in the following areas:

- 1) Writing crime reports and documenting the facts in the case
- 2) Conducting suspect, victim, and witness interviews
- 3) Conducting criminal histories to include local and NCIC queries
- 4) Locating suspects using multiple law enforcement databases
- 5) Authoring search and arrest warrants
- 6) Writing investigative follow-up reports
- 7) Arranging forensic interviews
- 8) Arranging SART exams
- 9) Conducting controlled calls
- 10) Arranging polygraph exams
- 11) Contacting doctors who specialize in child abuse cases
- 12) Contacting CPS social workers who are assigned referrals

Detective Karo knew being a child abuse investigator was an advanced position and understood this when he applied for the position. I asked what being an advanced investigator meant to him. Detective Karo stated it meant investigating cases which were specialized and the detective had a foundation to work from so they could investigate more in-depth cases. I explained to Detective Karo that I worked in the Child Abuse Unit and before I began this position, I had a foundation on how to write search and arrests warrants, conduct follow-up investigations, and locate suspects.

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I asked Detective Karo if he had a foundation of this nature before he was assigned to the Child Abuse Unit. Detective Karo told me yes.

KJ: *Now do you believe you were a competent child abuse detective?*

MK: *I did.*

Detective Karo said he completed his cases to the best of his ability and consistently managed his case load with the assistance given to him. Detective Karo said there was never a "formal" training program within the unit for every instance. Detective Karo obtained his knowledge from the other detectives within the unit as well as the supervisors who were reading his reports.

I showed Detective Karo his complete training summary which I obtained from the Regional Law Enforcement Academy. Detective Karo agreed this was an accurate account of his training. Detective Karo believed he was first assigned to the Child Abuse Unit on May 2, 2013.

On November 6, 2013, Detective Karo completed an advanced child abuse training course. This course consisted of 24 hours of instruction. Detective Karo recalled this training focused on the physical abuse of children. He told me this class concentrated on burns, broken bones, torture cases, and anything that represented child abuse of a physical nature.

On December 4, 2013, Detective Karo completed an advanced child abuse sexual assault course. This training consisted of 24 hours of instruction. Detective Karo recalled going to this training. He told me this training concentrated on everything that represented child abuse of a sexual nature.

On January 10, 2014, Detective Karo completed the basic child abuse training course. This training consisted of 40 hours of instruction. Detective Karo recalled going to this block of training. Detective Karo told me this course consisted of a general overview of both the physical and sexual abuse of children.

Detective Karo had a total of 88 hours of training specifically for child abuse investigations.

KJ: *Do you feel these classes assisted you during your investigations?*

MK: *Sure.*

I asked Detective Karo if these classes prepared him for his investigations. Detective Karo told me yes, but to an extent. These courses were not in-depth as far as dealing with CPS, doctors, search and arrest warrants, or interviewing subjects. These classes dealt

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with more of the physical and sexual indicators regarding abuse. As far as the specific topics of these classes, Detective Karo told me they were beneficial.

When Detective Karo first arrived to the Child Abuse Unit, he assisted the experienced detectives with their callouts as a learning experience. Detective Karo recalled assisting Detective Rick Castro with one of his cases which involved a 12 year old suspect who was touching his sister inappropriately.

Detective Karo estimated he went to approximately 3-4 callouts with other detectives when he first arrived to the unit. He was placed on an "all call" status as a new child abuse investigator. This meant whenever there was a callout, Detective Karo would respond with the experienced investigator to gain experience.

During these callouts, Detective Karo was able to ask questions and learn how to do the specific investigations they were working on. No detectives refused to assist Detective Karo. Detective Karo also attended the bi-weekly unit meetings during his time in the Child Abuse Unit. During these meetings, new and old cases were discussed and the detectives could roundtable their cases.

I asked if [REDACTED] offered to go through an orientation packet with him when he first arrived to the Child Abuse Unit. Detective Karo did not recall this, and told me [REDACTED] was either attending training or was off from work when he first arrived.

[REDACTED]
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Detective Karo stated it was not his job to manage other detectives and he focused on his own work.

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I asked if Detective Karo knew Detective Meleen. He told me yes. They both worked patrol together in San Marcos and were traffic partners in Poway. He has known Detective Meleen for approximately six years. I asked if Detective Meleen attended one of his forensic interviews with him as a learning experience. Detective Karo told me he remembered asking Detective Meleen if he wanted to attend one, but could not recall if he actually attended the interview or not. I asked Detective Karo if he remembered making the statement, *"I hope we don't get a disclosure."* Detective Karo did not recall making this statement, and could not remember if Detective Meleen even attended a forensic interview with him.

I began to question Detective Karo's case study with him. Every case listed above along with my views of deficiencies were discussed. They will follow the order in which they were documented above. In order to complete due diligence, I presented the following cases to Detective Karo and read a short synopsis of them. Detective Karo was allowed to review each case before we talked about its shortcomings. The following cases were brought to his attention.

[REDACTED]

An anonymous reporting party (RP) advised Child Protective Services (CPS) that a two year old female named [REDACTED] was living with her grandparents in Ramona. It was alleged the grandparents abused methamphetamine. The RP also alleged their four year old step-granddaughter would visit [REDACTED] at the residence and was sexually abused by the grandfather.

CPS visited the residence and determined there were no signs of drug abuse. CPS interviewed [REDACTED] who did not disclose or showed signs of abuse. CPS determined the RP was most likely a disgruntled former neighbor of the grandparents. This case was closed as Unfounded by Detective Karo.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation and relied on their interviews. Although each case is different, Child Abuse detectives do not defer their criminal investigations to another agency. Each CPS social worker is different with their interviewing skills and investigative experience. Sadly, some CPS social workers are much better than others.

He did not make any contact with the parties nor visit the home. Detective Karo did not conduct a criminal history on the grandfather, who had previous arrests for possession of controlled substances and hypodermic needles. The grandfather also had a suspended license for failing to appear.

There was no follow-up completed to ascertain who the RP was. This could have been easily determined if the grandfather was interviewed due to the possibility the RP was a

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previous neighbor. Also, the RP alleged their step-granddaughter visited the home and was molested by the grandfather. This allegation was never investigated whatsoever.

Questioning:

I asked Detective Karo why he did not conduct a criminal history for this suspect. He told me in the past, unless he spoke to a suspect or arrested them, he generally would not run their criminal history. In this case, since he did not investigate the incident any further, he did not run the suspect's criminal history.

I explained for future investigations, the detective should always run the suspect's criminal history. This allows the investigator to examine the suspect's criminal sophistication and background. If the suspect had previous child molestation arrests or cases investigated against him, this would permit the detective to corroborate the referral. Detective Karo agreed with my assessment.

Additionally, the referral states the suspect abused methamphetamine. If Detective Karo conducted a criminal history on the suspect, he would have ascertained the suspect's prior narcotics arrests. This would have corroborated the allegations which were made by the reporting party. Detective Karo agreed with this point.

I asked if Detective Karo closed his case based upon the CPS interviews alone. Detective Karo told me yes, and he used this practice frequently for his investigations. Detective Karo told me he had a feeling this was going to be brought up a lot for the remainder of our interview. He told me this was the way he was trained by the detectives in the unit. Detective Karo said if someone looked into all the detectives in the unit, this would come up a lot.

I explained to Detective Karo that child abuse detectives do not defer their criminal investigations to another agency, especially to social workers. Furthermore, I explained that some CPS social workers are better than others, and every social worker has varying investigative skills and dedication to their jobs. Detective Karo agreed with me.

Detective Karo said this was the first time he has ever heard this. I told Detective Karo this was considered "*investigative 101*" and a case agent cannot allow someone else to do their work for them.

The third issue with this case was Detective Karo never made contact with the suspect at all during this investigation. The most alarming feature about this was the RP's allegation their step-granddaughter was molested by the suspect was never investigated. The RP was believed to be a disgruntled neighbor. By contacting the suspect, Detective Karo could have obtained this neighbor's whereabouts and investigated the allegation of sexual abuse. I told Detective Karo this case was allowed to "*fall through the cracks.*"

KJ: *Do you see my point of view?*

MK: Yes.

[REDACTED]

A four year old female disclosed her grandfather pulled his pants down and exposed his genitals. CPS was notified and evaluated the case out. The grandfather now lives in Live Oak, California. The victim's mother declined prosecution but was concerned for her brother's children with whom the grandfather now lives with. Detective Karo closed the case out as No Prosecution.

Deficiencies:

Detective Karo did not conduct a criminal history for the grandfather. More importantly, Detective Karo did not notify the proper authorities in Live Oak, California as there were concerns by the victim's mother those children could be at risk. Detective Karo should have completed a suspected child abuse report and ensured its arrival to Live Oak. At a minimum, Detective Karo should have made contact with the Sutter County Sheriff's Department to advise them about this incident.

Detective Christi Licudine has been reassigned this case. Detective Licudine has completed additional interviews, conducted a forensic interview on the victim, completed a controlled call with the suspect, and flew to Live Oak to interview the suspect in person. Her investigation is still pending.

Questioning:

I raised the issue with no criminal history being documented in this case. Detective Karo simply did not document this in his report which should have been done, or he did not conduct a criminal history at all. The most glaring absence was Detective Karo did not notify CPS or the Sutter County Sheriff's Department about the mother's concerns her brother's children could be at risk. The suspect now lived with these children in their jurisdiction.

Detective Karo said the victim's mother spoke to her brother about this and his children did not disclose any abuse. I asked if it was a possibility the mother in this case lied about what her brother said, or if it was possible she lied about talking with him at all. Detective Karo agreed those possibilities could be relevant. I explained it was the detective's job to report suspected child abuse to another jurisdiction. I told Detective Karo this case has since been re-assigned and an extensive amount of work had been done.

I also explained to Detective Karo it was his responsibility to encourage prosecution in these cases when speaking with the victim or their family. Detective Karo said I was making "points" and he understood them. Detective Karo said he wished a supervisor

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had made these points when he worked in the Child Abuse Unit because he would have corrected these errors. I told Detective Karo that was a separate issue with the supervisors that I would be dealing with.

[REDACTED]

An eight year old female disclosed she takes her clothes off and her ten year old female friend licks her genitals. This occurred when the girls had a sleepover. CPS was assigned the case and closed it out as Unfounded. Based upon the CPS investigation, Detective Karo additionally closed his case as Unfounded.

Deficiencies:

Detective Karo relied on CPS for his investigation. Both parents should have been contacted where they could have had the forensic interview process explained to them. Although 26 PC issues are relevant, if this incident did occur, the proper counseling could have been offered to the children. Additionally, if the ten year old female was forensically interviewed and disclosed being a victim herself, this would explain the sexualized behavior and a criminal investigation could have been initiated.

Detective Licudine has been reassigned this case. She subsequently made contact with the victim's mother. The victim's mother declined to have her daughter interviewed due to it appearing she forgot about the incident.

Questioning:

Detective Karo allowed CPS to conduct his investigation. Since Detective Karo admitted he used this practice repeatedly, I did not extensively question him about this fault. I told Detective Karo he should have contacted both the families in this case and explained the forensic interview process to them. I described to Detective Karo that children of this age who exhibit sexualized behavior are sometimes themselves victims of sexual abuse and are acting out. I asked Detective Karo if he was aware of this. Detective Karo told me yes.

I told him if the children had been forensically interviewed and disclosed being victims of sexual abuse, a criminal investigation could have been initiated.

KJ: *Do you agree with that?*

MK: *Yes, if that's how the case goes. Yes.*

Since forensic interviews were not conducted in this case, the possibility of these children being victims of sexual abuse went uninvestigated. Detective Karo stated that was correct.

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[REDACTED]

A five year old female disclosed her twelve year old step-brother pulled her under the bed and tried to put his "pee-pee" on her "pee-pee." CPS was assigned this referral and interviewed all the parties involved. CPS concluded there were some sexualized behavior, however, it was not a criminal matter. CPS closed their referral as Unfounded. Detective Karo subsequently closed his investigation as Unfounded.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation based upon their interviews. Detective Karo did not interview or contact any of the involved parties. As a result of this substandard investigation, Detective Licudine had to be reassigned this case. Detective Licudine contacted the victim's mother and obtained a forensic interview for the victim. She also interviewed the suspect in person along with the suspect's mother.

Questioning:

As previously mentioned in the above listed cases, CPS conducted Detective Karo's investigation. He did not contact or interview anyone regarding this investigation. This case was brought to his attention due to the extensive amount of work which had to be done after the case was reassigned. It was explained to Detective Karo that to properly unfound an investigation, it took as much work as if the detective was going to send the case to the District Attorney's Office for prosecution.

[REDACTED]

A 17 year old female disclosed that approximately two years ago, a known suspect gave her marijuana and sexually abused her by rubbing his penis on her vagina. The suspect was believed to be in his thirties. The victim expressed if the suspect was located, she desired the case to be sent to the District Attorney's Office for prosecution. Detective Karo determined the suspect lived in the state of Washington. Detective Karo contacted Detective Anglin who works for the Jefferson County Sheriff's Office. Detective Karo obtained the suspect's address and telephone number. Several attempts to contact the suspect via the telephone were unsuccessful. Detective Karo suspended the case.

Deficiencies:

Detective Karo could have obtained a photograph of the suspect for identification purposes to be viewed by the victim. Detective Karo never requested permission to fly to the state of Washington to contact the suspect for an interview. Arrangements could have been made with the Jefferson County Sheriff's Office to use a ruse to see if this was a current address. If it was, measures could have been taken to contact the suspect in person and furthermore, request a polygraph and continue with the investigative questioning.

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Detective Karo could have obtained the cellular phone's subscriber information and potentially written a search warrant or had the device located by its ping service. Detective Karo simply called the cellular number and suspended his case when no one answered.

Questioning:

I asked Detective Karo if he could have done more with this case. Detective Karo said yes, and there were a multitude of things that could have transpired later on. Detective Karo said since he suspended the case, it could have been reopened later if any new information came up. Detective Karo told me he has suspended cases before and subsequently reopened them once more information was made available.

Detective Karo said he had several witness statements which were conflicting and the victim was *"all over the place as well."* I explained to Detective Karo that when it comes to investigations, we do not always get the best victims.

I asked Detective Karo if he ever showed a picture of the suspect to the victim for positive identification. Detective Karo believed the picture was either given to him by the victim or she told him about it. Either way, it was obvious to Detective Karo the victim knew the suspect.

KJ: *Um, you never requested to fly to Washington to interview the suspect. Why didn't you do that? This Department is very generous in sending our detectives all across the country to talk to people about our cases. I know that first hand.*

MK: *Ah, that probably didn't even cross my mind that it was something I would do.*

Detective Karo believed he told the victim he would have to rely on another agency to assist him because he could not just fly to Washington. Detective Karo never thought to request this travel.

I asked Detective Karo if he knew what a *"ruse"* was. Detective Karo told me yes. I explained he could have had the local agency use a *"ruse"* to re-contact the suspect to confirm his address again. Detective Karo could have prearranged a setting to where a polygraph exam could have been offered upon his arrival to Washington and contacting the suspect. Detective Karo did not have any objections to these investigative techniques.

I asked Detective Karo if he could have obtained a search warrant for the suspect's cellular phone for subscriber information and a ping location. Detective Karo did not know if he could have because he did not know who owned that number. It was debated on how he obtained that number for the suspect. I had to explain to him it appeared the suspect was contacted by the Jefferson County Sheriff's Office and through this contact, the suspect's phone number was obtained. Additionally, this was a non-intrusive search

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warrant with no force being necessary. Warrants for subscriber information are commonplace and easily obtained. Detective Karo did not have any rebuttals.

[REDACTED]

An anonymous RP alleged a 14 year old male was living with his mother who was a prostitute and drug addict. It was reported the mother was providing this juvenile marijuana and he was left unsupervised at home. The residence also contained drug paraphernalia inside. The RP alleged the juvenile tried to touch their son's penis while inside the residence. Due to the RP being anonymous, Detective Karo closed the case as Department Closure.

Deficiencies:

This could potentially be a felony child endangerment case. Detective Karo did not respond to the residence or contact anyone involved during his investigation. The prospect of this being a criminal case was never investigated. Detective Karo did not document in his report if a criminal history was conducted on the victim's mother.

Questioning:

I brought up the absence of a criminal history for the suspect. Detective Karo told me there have been some cases where he looked into the criminal history on a suspect but did not attach it to the case. Although this could be reasonable, a detective should always attach the criminal history to the case. At the very minimum, the detective should at least mention it was done and provided the results in his case log. I showed Detective Karo his case log for this investigation. It did not show any documentation about conducting a criminal history.

Detective Karo stated he rarely documented case logs and did not know what they really were when he arrived to the unit. Detective Karo said when he investigates a case he would usually document his notes on a piece of paper which was kept in the case's folder. Detective Karo understands now that criminal histories should be documented.

I told Detective Karo he should have gone to the house and contacted someone because this was a child endangerment case. By not doing so, this crime was never investigated. I asked Detective Karo if he saw the issue with this. Detective Karo told me he did, however, he did not believe the Child Abuse Unit handled Drug Endangered Children (DEC) cases. I explained by not going to the house to investigate the referral, we did not know what type of crime even existed. Detective Karo did not argue this fact. Sergeant Nevins asked Detective Karo if he referred this case to DEC. Detective Karo told us he did not or it would have been documented in his report.

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A four year old female victim returned from a visit with her father. The victim's mother noticed what appeared to be a bite mark on the victim's arm. When CPS interviewed the victim the bruising had already faded away, however, the victim's mother took photos of the bite marks beforehand.

The victim told her mother she was trying to gain the attention of the father when he became upset and bit her. The victim later disclosed to CPS she was playing rough with her father when he bit her. The victim's mother emailed the photos to Detective Karo. Detective Karo closed the case stating there was a lack of any clear evidence of injury along with insufficient evidence to show a crime had occurred.

Deficiencies:

Detective Karo did not document any criminal history for the suspect. Detective Karo allowed CPS to conduct all the interviews and did not contact anyone. There was never an attempt to conduct a forensic interview on the victim, nor did he contact the victim's mother to explain this process.

The most obvious deficiency regarding this case was Detective Karo had two photographs of the bite marks which were provided to him by the victim's mother. He discarded these photographs saying they were unclear and he was unable to discern obvious marks or bruising. When reviewing these photographs, this investigator clearly observed bruising which was consistent with bite marks on the victim's arms. Detective Karo additionally failed to consult with a doctor who specializes in child abuse cases so these injuries could be reviewed.

Questioning:

I yet again mentioned there was no criminal history documented for the suspect. The most egregious portion of this case concerned the two photographs the victim's mother sent to Detective Karo. I told Detective Karo although the photographs were not the best quality, when a victim discloses being bitten, those particular photographs thoroughly documented bit marks. This case most definitely should have been investigated.

I particularly made reference to the photograph which closely resembled a "smiley face." This photograph clearly shows, to this investigator, the two top canine teeth of a human (the eyes on the smiley face). Below that, the lower row of teeth can be observed by the obvious bruising on the arm.

I asked Detective Karo what he thought about my observations. Detective Karo said at that time, he could not tell what those photographs depicted. Upon reviewing these photos again, and reading what the victim disclosed to CPS, Detective Karo told me those injuries were most likely bite marks.

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I asked if he discussed these photographs with a doctor who specialized in child abuse cases. Detective Karo did not. He showed the photographs to another detective who agreed they could not discern what the marks were. Detective Karo believed he could not necessarily show a crime occurred. He thought the other detective was Detective Reden, however he could not be certain.

Detective Karo told me he understood my points. He said there were often times when he and other detectives knew a particular case would never be prosecuted. Detective Karo said maybe he should have sent this case to the District Attorney's Office so they could determine if prosecution was warranted. I agreed with his assessment.

I brought up the issue of Detective Karo writing there was a lack of any clear evidence of injury. Detective Karo told me he chose his words poorly. Detective Karo viewed the photographs again and still did not believe it was a clear picture of actual physical evidence. Detective Karo said he could not be absolutely certain those were pictures of bite marks. Sergeant Nevins viewed the photos for the first time and stated they looked like bite marks to him.

I explained if he was unsure, the photos should have been taken to Doctor [REDACTED] who works at Children's Hospital. I asked if Doctor [REDACTED] still worked there. Detective Karo told me she did, and she believed everything was a child abuse case. I asked Detective Karo if he understood my point. Detective Karo stated he did. I clarified he should not have allowed CPS to conduct his investigation and should have had the victim forensically interviewed.

Detective Karo stated he agreed with all of the points I was making concerning his case review. He told me if he disagreed with any of my arguments he would discuss them with me. Detective Karo said he "wished" someone went through all of these different scenarios with him while he was assigned to the Child Abuse Unit. Detective Karo told me it was nice to hear the points I was making because they made sense.

[REDACTED]

A 13 year old victim was arguing with his nine year old brother. When the victim's father intervened, he used a closed fist to "bump" the victim's chest to gain his attention. The victim lowered his head causing the father to hit his face. The victim sustained a broken nose. CPS interviewed all the parties involved and determined this was an isolated incident and was accidental. Detective Karo closed the case as Department Closure.

The case was subsequently returned to Detective Karo so a forensic interview could be obtained from the victim. Detective Karo was reassigned from the Child Abuse Unit prior to completing this interview.

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This case was reassigned to Detective Sossaman. A forensic interview was conducted along with other witness and suspect interviews. Medical Records were obtained and it was learned the victim sustained a broken wrist from another incident. The case has been sent to the District Attorney's Office for prosecution.

Deficiencies:

Detective Karo allowed CPS to conduct his investigation and closed the case as Department Closure. Detective Karo did not contact anyone or conduct any investigative interviews. He never scheduled a forensic interview for the victim until the case had been returned to him citing this error. Detective Karo never obtained the victim's medical records which would have documented previous injuries, nor did he consult with a doctor who specializes in physical abuse cases.

This case signifies the importance of conducting independent interviews instead of permitting CPS to conduct the entire investigation. CPS stated this injury was an isolated incident and was accidental. CPS was undoubtedly mistaken and completely overlooked the victim's complete medical history. As a result, the suspect was allowed to escape prosecution and could have continued the abuse. As a result of Detective Sossaman's complete follow-up investigation, the District Attorney's Office now can review this case for prosecution.

Questioning:

KJ: *Didn't schedule a forensic interview with the victim, can you tell me why you didn't do that?*

MK: *Well I figured, it's the same thing that we talked about on my other cases. I (unintelligible), apparently relied too much on CPS' information.*

KJ: *Okay.*

I pointed out this case was particularly disturbing. Detective Karo trusted CPS to conduct his investigation and he closed the case too quickly. CPS did not conduct a proper investigation and as a result, Detective Karo's investigation was flawed. Detective Karo agreed with my analysis. He told me it would have been beneficial if a supervisor returned his case back to him and explained the proper way to investigate it.

Detective Karo said if he had gone to that forensic interview himself, he would have learned about everything that came up later. I had to remind Detective Karo this case was in fact returned to him because the supervisor learned he did not schedule the forensic interview. Detective Karo agreed with me and said this case was the only investigation that was returned to him for this reason.

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Detective Karo stated he had been closing cases like this, using CPS interviews and dispositions, ever since he was assigned to the unit. This was how Detective Karo was trained. I reminded Detective Karo that most of his flaws and deficiencies were subject to "common sense." His concerns with the supervisors signing his reports off were a separate issue.

I brought up the fact that an audit for the entire Child Abuse Unit was conducted. It appeared there were repeated deficiencies with three detectives, not with the entire unit. If all the senior detectives were closing their cases out in this fashion, there would have been more detectives who were accused. Detective Karo did not know how the other detectives in the unit were closing their cases, but was told this was how to do it. Sergeant Nevins asked who told him this. Detective Karo mentioned Detectives Castro, Reden and Mays.

I asked if he understood that CPS does not have any powers of arrest. Detective Karo told me he understood this. I told Detective Karo if we investigated CPS referrals and allowed them to conduct our investigations, why have a Child Abuse Unit. Detective Karo did not have any objections. He stated although I mentioned common sense as a concern for his cases, it did not appear to be common sense to him when he was in the unit. Detective Karo had senior detectives and his supervisors tell him to close the cases out via CPS. Detective Karo recalled both [REDACTED] and [REDACTED] telling him this.

Detective Karo told me he was disappointed these things were not previously explained to him in this fashion, and was also disappointed he did not know any better while in the unit. Detective Karo was asked if he had ever reviewed a CPS referral that they closed, and determined himself that more work needed to be done. Detective Karo stated that probably did happen, but could not recall a specific case.

Detective Karo stated it was obvious he was relying on what CPS documented during their interviews for this particular case. Detective Karo admitted he did not investigate this case properly and did not know what his "frame of mind" was during this time. Deputy Karo agreed with my evaluation this particular case was a prime example of inferior work done by CPS.

[REDACTED]

A four year old victim tried to touch another child's buttocks at his preschool. When asked how he learned this behavior, the victim said his mother's boyfriend pulls his pants down and touches him in the front and back. A forensic interview was conducted and the victim recanted his disclosure. The victim said his mother got angry with him for saying this and told him the suspect only plays with him with his toys. Detective Karo suspended the case.

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Deficiencies:

Detective Karo did not interview the mother of the victim about possibly coaching her child to protect the suspect. A four year old child does not have the maturity or vocabulary to say he was coached into saying something. However, when a young child says his mother got angry with him for saying something, and the mother told the child the suspect only plays with him with his toys, this has obvious indications of coaching. Detective Karo never investigated this possibility.

The mother also disclosed being touched inappropriately by her step-father who sometimes cares for her own children. Detective Karo never investigated this disclosure and never had the additional children forensically interviewed to determine if they were in fact victims of sexual abuse. As a result, children were left in a dangerous situation where sexual abuse could have been occurring.

Questioning:

I began to describe the obvious deficiency with this investigation by pointing out the victim could have been "coached" into a non-disclosure to protect the suspect. A four year old victim does not have the maturity or the vocabulary to express this. When the victim said their mother got angry with him and the touching was only with his toys, this would lead a competent investigator to inquire about coaching the child. Detective Karo never interviewed the mother in this investigation. I explained to Detective Karo he should have interviewed the mother in this case and asked her about this coaching dispute. Detective Karo agreed with my assessment. Detective Karo replied:

MK: *Could I have talked to his mom? Yeah.*

Another offensive mistake was not investigating the potential the mother's step-father was abusing her children. The mother disclosed her step-father touched her inappropriately and sometimes cares for her children. After explaining the danger of allowing a possible suspect to have access to children, the following was mentioned:

KJ: *Do you see my concern with that?*

MK: *I do.*

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A 14 year old victim disclosed her grandfather inserted his finger into her vagina approximately four years ago. The suspect also touched her breasts underneath her clothing. There was an additional incident where the suspect touched the victim's vaginal area underneath her clothing as well. The victim was worried about how her family was going to react to her disclosure so she declined prosecution. The victim was willing to do a controlled call. The victim admitted to lying about "stupid stuff" in the past, but was

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not lying about this. The SDPD initiated this investigation but it was learned the incident occurred in our jurisdiction. The case was forwarded to Detective Karo who closed the case as Department Closure.

Deficiencies:

Detective Karo did not interview anyone in this investigation. He did not re-contact the victim to discuss her case. Detective Karo could have offered to meet with the family to discuss the victim's concerns. The victim previously stated she was willing to conduct a controlled call with the suspect, however, Detective Karo did nothing to follow-up on this. Detective Karo took the SDPD interviews to mean this case was lost and did nothing to encourage the victim to prosecute the suspect.

Detective Karo closed the case stating the victim did not desire prosecution, made reference to her mental health history, and lack of witnesses to the events. Someone's mental health history does not mean they are not a victim of sexual abuse. Some victims develop mental health issues as a result of being victimized.

Additionally, most child abuse cases lack witnesses. It is the detective's job to use various investigative techniques to develop a case sufficient for prosecution. Merely referencing a lack of witnesses for closing a case is unacceptable.

Questioning:

I clarified with Detective Karo he used the San Diego Police Department's (SDPD) interviews to close his case. This followed the same pattern as when Detective Karo would use CPS interviews to close his case.

KJ: *Um, but again, we don't defer our criminal investigations to other agencies, can't just rely on what they said.*

MK: *Okay.*

I asked why Detective Karo did not re-contact the victim to explain what was going on and to let her know he now had the case to investigate. Detective Karo said he observed the SDPD detective wrote the victim did not desire prosecution and decided to close his case similarly. Detective Karo did not know what his mindset was at this particular time, and agreed he simply, *"went off of what they were saying."*

I told Detective Karo the victim in this case desired prosecution, but was worried about what her family was going to think. This is a very common concern regarding victims of sexual abuse. I asked why Detective Karo did not reestablish conducting a controlled call with the victim. Detective Karo told me the *"no pros"* is what he was focusing on.

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I explained it appeared to this investigator, he took the SDPD's interviews to mean this was a "lost investigation" and closed the case.

KJ: *Ah, is that...*

MK: *I would agree.*

KJ: *Is that accurate?*

MK: *Yes.*

KJ: *Okay.*

Furthermore, I explained a lack of witnesses and the victim's mental health history are not motives for closing a case. Detective Karo agreed.

[REDACTED]

An 18 year old victim disclosed he was sodomized by a co-habitant approximately 8-10 years ago. The suspect's name and date of birth was documented in Detective Karo's report. Detective Karo documents he called the victim six times with negative results. Detective Karo mailed a contact letter to the victim which went unanswered. Detective Karo suspended the case.

Deficiencies:

Upon review of Detective Karo's case log, three calls were documented, not six. Detective Karo did not drive to the victim's residence to attempt to contact him. Driving to the victim's residence for contact is a very basic practice when investigating crimes. The victim's address was documented in his report. He never explored various database checks on the victim nor the suspect during his investigation. Detective Karo merely sent a contact letter to the victim after leaving several messages. The case was suspended without any additional follow-up.

Questioning:

I referred to Detective Karo's report documenting he called the victim six times in his narrative, however, his case notes only documented three phone calls. Detective Karo said this could have been due to him not documenting all of his attempts to call the victim in his case notes.

I asked why Detective Karo did not use his take home vehicle to drive to the victim's residence for contact. He was told if there was no contact with a victim then a letter should be mailed out to them. Detective Karo did not know who told him this.

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I told Detective Karo it was "*common sense 101*" a detective should go to the victim's residence when they could not get ahold of them. Detective Karo did not argue this point. I also explained Detective Karo could have searched the victim in various databases to obtain his recent contact information. Detective Karo learned from our discussion he should have and will attempt to contact victims in a more thorough manner.

Detective Karo said he was not a "*slouch*" and wished he had this knowledge when he was working in the Child Abuse Unit. He stated he was not a "*slug*" who was out to cut corners because that was not his intention. Detective Karo wanted to be successful and good at his job. Detective Karo said his background as a traffic investigator did not give him the ample experience required to do these investigations.

KJ: *I can see that. We're talking about a simple, go to the guy's house and knock on the door.*

MK: *Right.*

[REDACTED]

It was alleged a 17 year old victim sustained a broken nose by his father after it was learned he went to a party and was drinking. CPS investigated the case and closed it Unfounded after the victim said he broke his nose by wrestling with friends. The referral states the father hit the back of the victim's head while he was facing a wall. The father used enough force to break the victim's nose. When the victim went to school, he was questioned by the school staff about his nose. The victim told the school staff he walked into a door. Detective Karo closed the case by Department Closure.

Deficiencies:

Again, Detective Karo trusted CPS to conduct his investigation. Detective Karo did not contact or interview anyone. Being that the victim told two different stories, both dismissing his father as the suspect, this case should have been investigated to its full extent. Additionally, the suspect's criminal history does not appear to have been explored, and he was never interviewed to discuss his son's conflicting statements. On its face, it appears the father could have inflicted this injury and told his son not to implicate him.

CPS also appeared to reject the conflicting statements, which only confirms a lack of investigative thoroughness on their part. This is another reason why a case agent should not defer their investigations to another agency.

Questioning:

CPS conducted all the interviews with no investigation being done by Detective Karo. I reviewed with Detective Karo the three conflicting statements which were made by the

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victim. I asked if it was possible the suspect could have told the victim not to incriminate him for breaking his nose. Detective Karo told me yes. I asked why he did not interview the suspect or the victim. Detective Karo stated he referred back to the interviews conducted by CPS. I told Detective Karo I was surprised CPS closed their case due to the victim's conflicting statements.

KJ: *Could you have done more on that Mark?*

MK: *Yes.*

[REDACTED]

A two month old female infant was shaken 2-3 times by her father who yelled, *"What do you want from me?"* This was witnessed by the victim's mother. The infant was taken to Children's Hospital and did not sustain any injuries. Detective Karo could not contact the CPS social worker and spoke to the infant's mother. Detective Karo learned the mother is seeking a divorce from the father and CPS is working with them on a parenting plan. Detective Karo closed the case Department Closure.

Deficiencies:

This was another upsetting case. Detective Karo did not conduct any investigative interviews on a shaken baby case. The suspect was never contacted, nor was his criminal history probed. This case could have gone to the District Attorney's Office for criminal prosecution. The following California Penal Code section should have been applied:

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

This incident was witnessed by the victim's mother. By shaking the infant, it is clearly apparent the father placed the child in a situation where her health was endangered. Many infant victims of shaking sustain permanent brain damage which is irreversible. Even though this infant did not appear to have sustained any injuries, an injury does not need to be inflicted for prosecution. Detective Karo never investigated this charge whatsoever.

Questioning:

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I asked why Detective Karo did not run a criminal history on the suspect being it was a shaken baby investigation. Detective Karo stated he did not know if he conducted one,

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but it should have been attached to his investigation. I provided him with a copy of his case notes which did not document anything of any kind. Detective Karo said he now attaches everything to his investigations.

I asked why Detective Karo did not interview anyone during his investigation. He told me he did not interview anyone because there were no injuries to the infant. I asked if he was aware there did not need to be any sustained injuries for this case to be prosecuted as a felony. Detective Karo told me he was aware of that, however, he did not think about filing criminal charges for this case.

When asked why not, Detective Karo did not have an answer and told me he made a mistake. He stated maybe he did not have all the child abuse laws memorized as well as he could have. I told him he could have looked the statute up in a penal code. Detective Karo agreed and said it just did not occur to him he could have sent the case for prosecution without any injuries.

End of Case Review

Detective Karo concluded our interview by telling us, knowing what he knows now, none of these cases reviewed during his interview were investigated thoroughly on his behalf. Detective Karo stated he became friends with several detectives in the unit and trusted what they told him. He had never been approached by any of the sergeants to discuss his deficiencies. His last evaluation was "*perfect*" and he assumed he was doing an adequate job.

Detective Karo said he could see now how a lot of these issues were common sense decisions and maybe he lost some of that during his time in the Child Abuse Unit. He wished he had some of this information processed back then to assist him with his cases. Detective Karo appreciated this investigator not just asking him questions, but pointing out the various flaws in his investigations and explaining them to him.

Detective Karo said he was afforded to make his points during our interview and was not using that as a "*blanket*" excuse for what occurred. Detective Karo told me he played a part in doing things wrong and should have "*reached out*" more than he did.

The interview was concluded at approximately 2106 hours with an order not to disclose.

INVESTIGATION: (Continued)

On January 13, 2015, at approximately 1033 hours, I interviewed Detective Rick Castro as a witness. The interview was conducted in the office of Internal Affairs. I recorded the interview using a digital voice recorder. Detective Castro was aware of the recording. Prior to our interview, Detective Castro was given the four sections of the Rules of Conduct as they pertained to Insubordination, Intervention, Departmental Reports, and Truthfulness. Detective Castro did not have any issues following these procedures. The

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following is a synopsis of our conversation. For exact details, please refer to the attached recording.

STATEMENT OF WITNESS: DETECTIVE RICK CASTRO

Detective Castro has been employed with the San Diego County Sheriff's Department for approximately 24 years. He is currently assigned as a detective in the Sheriff's Child Abuse Unit. Detective Castro has known Detective Mark Karo for approximately six months to one year. He first met Detective Karo when they were assigned to work together in the Child Abuse Unit. Detective Castro said he would have interactions with Detective Karo *"all the time"* while they worked together as detectives.

Detective Castro's general impression of Detective Karo was good and although he never reviewed any of his reports, Detective Karo would commonly ask questions and go to him for advice. Detective Castro would give him advice regarding his investigations, but did not know if Detective Karo followed through with it or not. Detective Castro said it appeared Detective Karo was doing an adequate job while assigned to the Child Abuse Unit.

Detective Castro told me Detective Karo assisted him on several cases and did whatever he was instructed to do. Detective Castro also assisted Detective Karo on several of his investigations which included conducting interviews. According to Detective Castro, Detective Karo conducted these interviews appropriately and he did not observe any issues. I asked Detective Castro if he explained to Detective Karo the importance of conducting criminal histories on suspects prior to interviewing them. Detective Castro told me he did and also believed Detective Karo knew this already.

Detective Karo would additionally ask Detective Castro for help when it came to investigating CPS referrals. Detective Castro assisted him with these referrals and told him to *"keep an open mind"* when investigating them. Detective Castro explained when a CPS referral is assigned, what is documented on it may not be exactly what happened. When the detective interviews the parties involved, their statements on what occurred could be completely different from what the referral states.

Detective Castro said there were some CPS social workers who did a better job than others. He would encourage any detective to interview the reporting party and witnesses who were listed on the referral, along with the CPS worker and obtain their notes. Detective Castro said there were some cases where the victim lied about what occurred, however that did not happen very often. Detective Castro said he told Detective Karo to conduct his own interviews and investigation.

When Detective Karo was newly assigned to the Child Abuse Unit, he approached Detective Castro about what kind of training he was supposed to receive. Detective Castro told him he was not trained either, and to ask the other detectives for guidance and

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advice. Detective Castro told me since he was very approachable, Detective Karo would often go to him for questions regarding his cases.

KJ: *And, did you ever refuse to give him any advice?*

RC: *No, I always helped him out.*

I revisited what Detective Castro told Detective Karo about the CPS referrals due to its importance in this investigation. I asked if he ever told Detective Karo to "rubber stamp" his investigations and to rely on what CPS had done. Detective Castro told me "no."

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Detective Castro never approached the sergeants personally about how many cases were assigned to the various detectives or their lack of investigating them properly. Detective Castro never approached [REDACTED] or [REDACTED] personally about their low case count. I asked how [REDACTED] relationship was with Detectives Karo, [REDACTED] [REDACTED] got along fine with Detective Karo initially but they tended

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to "bicker" towards the end. [REDACTED]

Detective Castro said it surprised him when he found out Detective Karo's investigations were inadequate. Detective Karo seemed very "conscientious" and asked a lot of questions about his cases. Whenever Detective Castro needed help, Detective Karo was there to assist him. [REDACTED]

My interview with Detective Castro was concluded at approximately 1133 hours with an order not to disclose.

INVESTIGATION: (Continued)

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I asked [REDACTED] what her impression was of Detective Karo. [REDACTED] said she really did not have an impression, and just assumed he was an adequate detective because his reports were getting approved. [REDACTED]

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I asked [REDACTED] if she recalled working with Detectives Mark Karo and [REDACTED] told me she did. I asked what her impression of Detective Karo was. She did not know him very well and said he assisted her with one of her previous interviews. [REDACTED] did not have a lot of interaction with Detective Karo and he seemed to be doing an adequate job as an investigator. She did not hear about any issues regarding his work performance.

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INVESTIGATION: (Continued)

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This investigator reviewed and documented a total of 34 deficient cases which were completed by Detectives Karo (13), [REDACTED] [REDACTED]
[REDACTED]
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Victims in these cases cannot defend themselves and rely on law enforcement to hold suspects accountable for their crimes. When a poor investigation is submitted and approved, both the detective and sergeant are liable. It is the detective's responsibility to complete a suitable work product. When the detective fails to provide this, it now becomes the sergeant's responsibility to notice any defects and to return the investigation back to the detective for additional follow-up.

When the detective and sergeant fail to accomplish this, ultimately they are failing the victims they have sworn to protect and open this Department to liability. This is clearly unacceptable.

Out of the 34 deficient cases I reviewed, I determined [REDACTED] [REDACTED] approved four of them. These four cases will be discussed during his Internal Affairs interview. Through my investigation I determined [REDACTED] [REDACTED] approved 23 deficient cases. A portion of these cases will be discussed during his Internal Affairs interview. The remaining cases were approved by other various supervisors or those filling the role as acting sergeant.

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[REDACTED] [REDACTED]
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[REDACTED] [REDACTED]

When [REDACTED] [REDACTED] was promoted, he routinely reviewed crime, arrest, and follow-up reports. He would return those reports back to the deputy if he observed errors or if they needed additional work.

[REDACTED] [REDACTED] directly supervised [REDACTED] [REDACTED] and Morsch, however he could not recall the other detectives he supervised in the Child Abuse Unit. [REDACTED] [REDACTED] did recall that he was not responsible for the other detectives listed in this complaint, which were Detectives Karo, [REDACTED] and [REDACTED]. Those detectives were supervised by Sergeant Vickery and then [REDACTED] [REDACTED].

[REDACTED] [REDACTED] said he shared responsibilities with [REDACTED] [REDACTED] when they worked together. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] When cases would come in, [REDACTED] [REDACTED] tried to focus on the child abuse investigations and [REDACTED] [REDACTED] concentrated on the

sexual assault reports. There were times when child abuse cases were submitted and [REDACTED] [REDACTED] would review them due to him feeling he had sufficient knowledge about those types of investigations. Both [REDACTED] [REDACTED] and [REDACTED] shared the responsibility of reviewing the sexual assault and child abuse cases when they were submitted for approval.

[REDACTED] [REDACTED] recalled supervising Detective Karo when they were assigned to the Child Abuse Unit.

KJ: *Do you believe he was a competent detective?*

[REDACTED] *Yes.*

[REDACTED] [REDACTED] said Detective Karo received a very complex case immediately when he arrived to the Child Abuse Unit. Detective Karo worked well with the other experienced detectives and obtained a conviction for that case. Detective Karo subsequently received compliments from the DA's Office regarding this investigation. Even though Detective Karo was new to some of these investigative concepts, he received training from Detective Reden and applied the necessary skills. Detective Karo was described as being a hard worker and finished his cases quickly. When Detective Karo was asked to do something, he was very reliable in getting the job done. The cases Detective Karo turned into [REDACTED] [REDACTED] to review appeared to be completed in a thorough manner.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]

KJ: *Did he ever express any concerns about Detectives Karo and [REDACTED] during this time?*

HG: *No.*

[REDACTED] [REDACTED] stated [REDACTED] [REDACTED] did not mention any concerns about Detectives Karo or [REDACTED] at this time and it was only regarding [REDACTED] [REDACTED] I brought up the incident where [REDACTED] [REDACTED] offered to make a checklist for all the detectives to use for their investigations. This checklist was comprised of background and criminal history information the detective could attach to their investigation for completeness. According to [REDACTED] [REDACTED] when he approached [REDACTED] [REDACTED] about this form, [REDACTED] [REDACTED] told him it was not necessary and he was not going to make the detectives use it. [REDACTED] [REDACTED] told me he never said that to [REDACTED] [REDACTED]

██████████ ██████████ said he did not routinely check if the detectives conducted criminal histories on their suspects and would generally read their narratives for approval. ██████████ ██████████ assumed the detectives were conducting criminal histories.

[REDACTED] allowed each detective to make a decision whether they responded after hours or not. [REDACTED]

[REDACTED]

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██████████ ██████████ would assign cases based upon where the detectives lived. If someone lived in the North County, they would be assigned cases in that general area and would commonly end their day with an interview near there. ██████████ ██████████ believed he was doing the detectives a favor and tried to make it easier for them. If a detective abused this method, ██████████ ██████████ did not know about it. ██████████ ██████████ made the detectives arrive to the office, and then sign out to where they were going. That was the normal routine. ██████████ ██████████ believed everyone was conducting themselves appropriately with this.

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[REDACTED] said there were no other detectives who had any concerns about Detectives Karo, [REDACTED] and [REDACTED] other than [REDACTED]

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It was not until after this meeting did [REDACTED] write his document or complaint and added Detectives Karo and [REDACTED] to it. [REDACTED] only knew about [REDACTED] during his time in the Child Abuse Unit and nothing about the other two detectives.

[REDACTED]

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I examined the comment [REDACTED] [REDACTED] allegedly made to [REDACTED] [REDACTED] on February 26, 2014. [REDACTED] [REDACTED] told this investigator he spoke to [REDACTED] [REDACTED]

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I began to review four cases which were approved by [REDACTED] [REDACTED] which had serious deficiencies. The following cases were reviewed by [REDACTED] [REDACTED] prior to my questioning. The following cases were discussed:

© 2006 The Authors

[REDACTED]

11/11/2016

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A two month old female infant was shaken 2-3 times by her father who yelled, "What do you want from me?" This was witnessed by the victim's mother. The infant was taken to Children's Hospital and did not sustain any injuries. Detective Karo could not contact the CPS social worker and spoke to the infant's mother. Detective Karo learned the mother was seeking a divorce from the father and CPS was working with them on a parenting plan. Detective Karo closed the case Department Closure.

Deficiencies:

This was another upsetting investigation. Detective Karo did not conduct any investigative interviews on a shaken baby case. The suspect was never contacted, nor was his criminal history probed. This case could have gone to the District Attorney's Office for criminal prosecution. The following California Penal Code section should have been applied:

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain

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or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

This incident was witnessed by the victim's mother. By shaking the infant, it is clearly apparent the father placed the child in a situation where her health was endangered. Many infant victims of shaking sustain permanent brain damage which is irreversible. Even though this infant did not appear to have sustained any injuries, an injury does not need to be inflicted for prosecution. Detective Karo never investigated this charge whatsoever.

██████████ approved this investigation with the above listed deficiencies.

Questioning:

I brought up Detective Karo's failure to interview the suspect in a shaken baby case. I asked why this report was not returned back to Detective Karo due to this deficiency. ██████████ did not know.

At this point, ██████████ had an issue with my assessment. ██████████ said this case was an allegation of a crime which came from the mother who was seeking a divorce from the father. The child did not have any injuries so he was unsure how "clear" this crime actually was. The following was this investigator's response:

KJ: *Let me retract that. Every crime report that comes through our desk is an allegation. Nothing is clear until it's investigated. Alright?*

I went on to explain the suspect needed to be interviewed along with the mother in this case who witnessed the incident. Witnesses in these cases are rare. When the opportunity arises, the detective is obligated to extensively interview key witnesses who are associated with crimes.

I explained this case was criminal. If this incident did in fact occur, an injury did not need to be inflicted for criminal prosecution. The father placed the infant in a situation where her health was endangered. This alone was a felony.

██████████ Okay. So you could charge it. Okay.

I asked why this case was not returned so it could be criminally prosecuted. ██████████ could not recall what he was thinking at the time he was reviewing these investigations. He could not explain or answer for his decisions during that specific time.

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[REDACTED] routinely reviewed crime reports, arrest reports, and follow-up investigations. If these reports contained errors or required additional work, [REDACTED] would return them back to the detective to complete. [REDACTED] directly supervised Detectives Karo, [REDACTED] and [REDACTED] while working in the Child Abuse Unit. [REDACTED] additionally supervised various detectives who worked in the Sexual Assault Unit.

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[REDACTED]

[REDACTED] recalled supervising Detective Karo.

KJ: *And do you believe he was a competent detective?*

[REDACTED] Yes.

KJ: *Okay, and why? The reasons.*

When [REDACTED] arrived to the Child Abuse Unit, he spoke to [REDACTED] about all the detectives to obtain a background on them. [REDACTED] told him all the detectives had already investigated "major cases." [REDACTED] later learned some of the detectives had not attended some of the necessary child abuse training courses that he felt were necessary. [REDACTED] also believed Detective Karo's investigations were "too short." He brought these training issues to the attention of [REDACTED] who told him to send the detectives to whatever training they needed.

[REDACTED] had to speak to Detective Karo several times about closing his cases too quickly. Detective Karo appeared to understand these concerns and corrected his investigative practices. [REDACTED] did not observe any other problems with Detective Karo.

[REDACTED]

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_____ began this practice of pairing an inexperienced detective with a seasoned one so they could learn the protocols.

Detective Karo did not receive this training according to [REDACTED] [REDACTED] [REDACTED] [REDACTED] told me when he looked back at the bigger picture, this would have benefitted Detective Karo. [REDACTED]

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[REDACTED]

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From that point on, the three of them mostly discussed [REDACTED] issues and did not concentrate on Detectives Karo, [REDACTED] and [REDACTED]

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[REDACTED]

[illegible][illegible]

[REDACTED]

I asked [REDACTED] [REDACTED] if anyone other than [REDACTED] [REDACTED] ever expressed their concerns that Detectives Karo, [REDACTED] and [REDACTED] were not conducting proper investigations. [REDACTED] [REDACTED] told me no one directly came to him, but he heard "noise" around the office when someone would complain about receiving a new case.

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I asked about the discussion which took place on February 26, 2014. During this incident, [REDACTED] mentioned to [REDACTED] and [REDACTED] that having a low

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case count in the Child Abuse Unit was not a desirable thing. [REDACTED] [REDACTED] was insinuating Detectives Karo, [REDACTED] and [REDACTED] were not conducting thorough investigations and were closing their cases too quickly. [REDACTED] [REDACTED] said he was aware of these concerns because [REDACTED] [REDACTED] had "planted the seed." [REDACTED] [REDACTED] additionally mentioned he and [REDACTED] [REDACTED] both looked into this matter and they did not find anything wrong with their investigations.

KJ: *Do you recall this conversation with [REDACTED] [REDACTED]*

[REDACTED] *No.*

KJ: *Nothing like that at all?*

[REDACTED] *No.*

I asked [REDACTED] [REDACTED] if he ever conducted an audit on the child abuse cases. [REDACTED] [REDACTED] told me yes. I asked when this audit took place. [REDACTED] [REDACTED] said it was after [REDACTED] [REDACTED] brought in his "manifest." This was approximately 1-2 months before [REDACTED] [REDACTED] was removed from the unit, and [REDACTED] [REDACTED] was already working in [REDACTED] [REDACTED].

During this time, [REDACTED] [REDACTED] had already been transferred and Lieutenant Duckworth was now his supervisor. Lieutenant Duckworth asked [REDACTED] [REDACTED] to conduct an audit concerning the child abuse cases.

I asked [REDACTED] [REDACTED] to tell me what his audit consisted of. [REDACTED] [REDACTED] told me he looked into the cases [REDACTED] [REDACTED] mentioned in his document, and then he went back further for those detectives. Sergeant Ting was newly assigned to the Child Abuse Unit so he assisted [REDACTED] [REDACTED] with this audit. [REDACTED] [REDACTED] believed he inspected [REDACTED] [REDACTED] cases and Sergeant Ting reviewed [REDACTED] [REDACTED] investigations.

[REDACTED]
[REDACTED]
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I asked what the audit revealed about Detectives Karo and [REDACTED]. Apparently, Sergeant Ting conducted their audits and [REDACTED] [REDACTED] did not discuss them with him. [REDACTED] [REDACTED] said he was left out of the "loop" at about this time and Sergeant Ting was having a lot of closed door meetings with Lieutenant Duckworth.

██████████ ██████████ advised Lieutenant Duckworth about ██████████ ██████████ deficiencies and also told him he approved some of her investigations. Lieutenant Duckworth requested an audit of the entire unit which was accomplished by the Sheriff's Threat Assessment Group (TAG).

I asked if [REDACTED] [REDACTED] ever looked at any of these cases in NetRMS. [REDACTED] [REDACTED] did not know and believed he was more concerned with the "[REDACTED] [REDACTED] case and what was happening with him. I asked [REDACTED] [REDACTED] if he believed [REDACTED] [REDACTED] dismissed the allegations made by [REDACTED] [REDACTED]. At this time [REDACTED] [REDACTED] began to cough from drinking a sip of water and requested a break. We took a short break at approximately 1459 hours.

We went back on recording at approximately 1507 hours. Shortly after our interview resumed, my digital voice recorder stopped recording due to low batteries. I was unaware of this recording failure for approximately 12 minutes. I subsequently downloaded [REDACTED] [REDACTED] recording to document the missing minutes (until 1519 hours). I installed fresh batteries in my recorder and my interview resumed at approximately 1526 hours.

Recording (Approximately 12 minutes)

I revisited my question and asked if [REDACTED] [REDACTED] ever looked into these investigations to see if there were any deficiencies. [REDACTED] [REDACTED] did not know. I asked [REDACTED] [REDACTED] if he spoke to Detectives Karo, [REDACTED] and [REDACTED] about their audits. [REDACTED] [REDACTED] told me no. [REDACTED] [REDACTED] said it was a surprise when they all learned about their transfers out of the unit.

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[REDACTED]

[REDACTED]

[REDACTED]

After installing fresh batteries in my digital recorder, the interview resumed at approximately 1526 hours. When the reader of this report desires to listen to this portion of the interview, it can be located under [REDACTED] [REDACTED]

At this point in the discussion, [REDACTED] [REDACTED] and I began to discuss six deficient investigations he approved. During my investigation, I located 23 deficient cases [REDACTED] [REDACTED] approved. In the interest of time, I did not review all 23 of these investigations with [REDACTED] [REDACTED] and his attorney. I randomly selected six reports for this interview. The 23 investigations are attached to my report for further review if necessary.

[REDACTED]

A 17 year old female disclosed that approximately two years ago, a known suspect gave her marijuana and sexually abused her by rubbing his penis on her vagina. The suspect was believed to be in his thirties. The victim expressed if the suspect was located, she desired the case to be sent to the District Attorney's Office for prosecution. Detective Karo determined the suspect lived in the state of Washington. Detective Karo contacted Detective Anglin who works for the Jefferson County Sheriff's Office. Detective Karo obtained the suspect's address and telephone number. Several attempts to contact the suspect via the telephone were unsuccessful. Detective Karo suspended the case.

Deficiencies:

Detective Karo could have obtained a photograph of the suspect for identification purposes to be viewed by the victim. Detective Karo never requested permission to fly to the state of Washington to contact the suspect for an interview. Arrangements could have been made with the Jefferson County Sheriff's Office to use a ruse to see if this was a current address. If it was, measures could have been taken to contact the suspect in person and furthermore, request a polygraph and continue with the investigative questioning.

Detective Karo could have obtained the cellular phone's subscriber information and potentially written a search warrant or had the device located by its ping service. Detective Karo simply called the cellular number and suspended his case when no one answered.

Questioning:

I asked [REDACTED] [REDACTED] why he did not return this case to Detective Karo and instruct him to fly to Washington for a suspect interview. [REDACTED] [REDACTED] said things were "a little different" as to when he and I worked there. [REDACTED] [REDACTED] was under the impression the Child Abuse Unit did not have the funds to fly a detective to this location. I asked if he was told the unit did not have the appropriate funding. [REDACTED] [REDACTED] told me in these types of cases, the outside agency had to contact the suspect and if they were successful, he could send a detective to their location for an interview.

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A four year old female victim returned from a visit with her father. The victim's mother noticed what appeared to be a bite mark on the victim's arm. When CPS interviewed the victim the bruising had already faded away, however, the victim's mother took photos of the bite marks beforehand.

The victim told her mother she was trying to gain the attention of the father when he became upset and bit her. The victim later disclosed to CPS she was playing rough with her father when he bit her. The victim's mother emailed the photos to Detective Karo. Detective Karo closed the case stating there was a lack of any clear evidence of injury along with insufficient evidence to show a crime had occurred.

Deficiencies:

Detective Karo did not document any criminal history for the suspect. Detective Karo allowed CPS to conduct all the interviews and did not contact anyone. There was never an attempt to conduct a forensic interview on the victim, nor did he contact the victim's mother to explain this process.

The most obvious deficiency regarding this case was Detective Karo had two photographs of the bite marks which were provided to him by the victim's mother. He discarded these photographs saying they were unclear and he was unable to discern obvious marks or bruising. When reviewing these photographs, this investigator clearly observed bruising which was consistent with bite marks on the victim's arms. Detective Karo additionally failed to consult with a doctor who specializes in child abuse cases so these injuries could be reviewed.

Questioning:

I asked [REDACTED] if he ever requested or told his detectives to attach criminal histories to their investigations. He told me yes. I showed [REDACTED] this investigation which required the suspect's criminal history. [REDACTED] agreed this was absent.

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I asked why he did not return this case back to Detective Karo and tell him to conduct the proper interviews. CPS conducted all of the interviews in this investigation. [REDACTED]

I showed [REDACTED] the photos of the bite marks and defined how they were overlooked. [REDACTED] agreed and said he did not believe he even looked at the photos which were attached and only read the narrative of the report. Normally, [REDACTED] would review all of the attachments when a case was turned in, however, he must have missed this opportunity.

[REDACTED]

[REDACTED]

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[REDACTED] additionally supervised Detectives [REDACTED] and Mark Karo. [REDACTED]

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[REDACTED]

[REDACTED]

I asked if Detective Karo was working at a capable level. [REDACTED] [REDACTED] told me yes. [REDACTED] [REDACTED] recalled one of Detective Karo's cases that involved a suspect who apparently was molesting several boys. The suspect fled and was arrested a short time later by the San Diego Police Department (SDPD). This particular case was praised by the media and Detective Karo received several "kudos" for his effort. [REDACTED] [REDACTED] believed Detective Karo was doing a "great job."

KJ: *Did you have access to NetRMS while assigned to the Child Abuse Unit?*

[REDACTED] Yes.

I asked [REDACTED] [REDACTED] if he ever accessed NetRMS to review any reports. [REDACTED] [REDACTED] stated the only time he accessed NetRMS to review any reports was during the [REDACTED] [REDACTED] investigation. These reports were written by the sexual assault detectives and went straight to the CID captain. [REDACTED] [REDACTED] approved these reports because the captain did not have access to NetRMS. These reports bypassed the sergeants in the unit because of the sensitivity of the investigation. [REDACTED] [REDACTED] said other than pulling a few cases to answer some questions, this was the only time he accessed NetRMS.

[REDACTED] [REDACTED] expanded on this and said that was not his job and he was not the "subject matter expert." [REDACTED] [REDACTED] stated he was not trained to review these cases and make any determinations.

KJ: *For the Child Abuse Unit specifically?*

[REDACTED] *For any of the units.*

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I was going to ask [REDACTED] [REDACTED] if he ever saw any issues with the child abuse reports he reviewed, but this question was not asked due to [REDACTED] [REDACTED] already confirming he never reviewed any child abuse reports for competency.

KJ: *Were you ever made aware that [REDACTED] [REDACTED] was looking at other detectives' follow-ups in NetRMS?*

[REDACTED] Yes

I asked when he was first made aware of this. [REDACTED] [REDACTED] stated it was shortly before he was transferred to [REDACTED] [REDACTED] entered his office and told him they were having a hard time accessing cases in NetRMS. They explained someone was looking at the cases and leaving them open. [REDACTED] [REDACTED] assured them it was not him. Since the sergeants could not access these reports, they could not subsequently approve them. [REDACTED] [REDACTED] and [REDACTED] contacted NetRMS and learned it was [REDACTED] [REDACTED] who was opening these cases so they could be viewed. The cases were closed by NetRMS and eventually approved.

[REDACTED] [REDACTED] asked [REDACTED] [REDACTED] and [REDACTED] what was going on. He learned there was a joke in the office about who had the most open cases. The sergeants told him [REDACTED] [REDACTED] did not like the fact he had the most open cases and he was trying to "deflect" his situation. [REDACTED] [REDACTED] was told [REDACTED] [REDACTED] was picking on Detectives Karo, [REDACTED] and [REDACTED] by telling them they needed to investigate their cases like he would.

KJ: *So he was making it a point saying that their investigations were lacking? Is that right?*

[REDACTED] [REDACTED] said that was what it seemed like. According to [REDACTED] [REDACTED] [REDACTED] did not advise the sergeants about this but went to the detectives themselves. [REDACTED] [REDACTED] told [REDACTED] [REDACTED] that [REDACTED] [REDACTED] was approaching the detectives and confronting them about this directly.

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[REDACTED] asked [REDACTED] and [REDACTED] if this was true, and if Detectives Karo, [REDACTED] and [REDACTED] had any deficiencies. [REDACTED] and [REDACTED] both told [REDACTED] their cases were fine and they did not have any deficiencies.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] said the "bottom line" to this was [REDACTED] and [REDACTED] told him there was nothing wrong with the cases that were investigated by Detectives Karo, [REDACTED] and [REDACTED]. [REDACTED] stated his experience with these detectives had always been positive to this point. Additionally, and on the contrary, [REDACTED] had to be counseled around that time for telling a victim's family member their case could not be investigated appropriately because there were not enough detectives in the unit. [REDACTED] had also made inappropriate and discourteous comments to the sergeants during one of their briefings. [REDACTED] believed [REDACTED] was a "malcontent" who was not happy.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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I asked if he personally looked into any cases which specifically had to do with Detectives Karo, [REDACTED] and [REDACTED] so he could reassure their cases were investigated properly. [REDACTED] did not. [REDACTED] believed this was a conflict between the deputies and it was the sergeant's job to rise above it and look at the big picture. [REDACTED] did not believe there was a reason to review the reports submitted by Detectives Karo, [REDACTED] and [REDACTED] based upon the positive feedback he received about them.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED] said [REDACTED] [REDACTED] never personally mentioned any deficiencies with the other detectives which he thought was odd because they used to talk all the time. [REDACTED] [REDACTED] stated if he knew Detectives Karo, [REDACTED] and [REDACTED] had problems, he would have addressed that also. He asked direct and appropriate questions about these detectives and [REDACTED] [REDACTED] and [REDACTED] told him their cases were reviewed and acceptable.

[REDACTED] [REDACTED] said it made no sense [REDACTED] [REDACTED] and [REDACTED] allowed these three detectives to submit poor cases while holding everyone else to a higher standard.

KJ: *Do you remember specifically what you asked the sergeants?*

[REDACTED] *Yeah. I (unintelligible), are these people, you know. Does [REDACTED] have a leg to stand on? Does he have, you know, does he have valid concerns and they said no.*

I asked [REDACTED] [REDACTED] if he ordered [REDACTED] [REDACTED] and [REDACTED] to review any cases which were submitted by Detectives Karo, [REDACTED] and [REDACTED] [REDACTED] could not recall specifically if he gave them an order, but believed he asked them about their cases and was told they were fine. He did not recall ordering them to go back through the cases they already approved to have a second look. That did not make sense to him. [REDACTED] [REDACTED] did not evaluate the cases [REDACTED] [REDACTED] and [REDACTED] allegedly reviewed to determine their findings.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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Internal Affairs Investigation
I.A. Case #2014-108.1
October 27, 2014

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This concluded my interview with [REDACTED] [REDACTED] [REDACTED] The interview was concluded at 1409 hours with an order not to disclose.

Submitted by: KW #2406, SGT. 4/20/15
K.W. Jones, Sergeant Date

Approved by: [Signature] 4/20/15
Christine Harvel, Lieutenant Date

WG: kwj

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SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

INTERNAL AFFAIRS UNIT

INVESTIGATION REPORT

CONFIDENTIAL

INTERNAL AFFAIRS CASE NUMBER: 2014-108.1

DATE: June 25, 2015

COMPLAINANT: S.D.S.D.

INVESTIGATOR: Sergeant K. Jones

ADDENDUM

On June 22, 2015, I was asked to complete an addendum regarding my initial Internal Affairs investigation #2014-108.1. I was tasked with reviewing Detective Mark Karo's interview with [REDACTED] [REDACTED] who was an underage victim of sexual assault. [REDACTED] [REDACTED] reported she was sexually abused by [REDACTED] (DOB: [REDACTED]). [REDACTED] [REDACTED] subsequently moved from California to Washington after the crime was completed. Detective Karo was assigned this case for investigation. After several negative attempts to contact the suspect via the telephone, Detective Karo ultimately suspended the investigation.

Detective Karo was alleged to have acted unprofessionally during the interview by attempting to persuade [REDACTED] into not prosecuting the suspect. It was alleged Detective Karo made more of an effort to sway [REDACTED] into not prosecuting the case than he did actually investigating the crime itself. Additionally, it was alleged Detective Karo did not accurately portray the victim in his report which documented their interview.

Detective Karo's interview with [REDACTED] was approximately 32 minutes. The interview was conducted over the phone and was recorded. This investigator listened to the interview approximately four times to evaluate its content and perception. After evaluating the interview, this investigator found numerous flaws throughout the discussion and in Detective Karo's follow-up report.

The deficiencies that I located regarding Detective Karo's investigative practices for this particular investigation were not concentrated on. Those deficiencies were already addressed during my initial investigation. Detective Karo's conduct with [REDACTED] during the interview and his ensuing documentation of it will be reviewed.

When listening to the recorded interview, it would be reasonable to assume Detective Karo attempted to persuade [REDACTED] into not prosecuting the suspect. Whether he did not feel the case was strong enough to investigate or if he was just indolent, these factors will have to be addressed with Detective Karo in this addendum. Also, Detective Karo described [REDACTED] as

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upset and uncooperative with him. Evidence of this can be obtained from his follow-up investigation (CN [REDACTED] conclusion of page 5). When listening to his interview with [REDACTED] it is undisputed she became upset with Detective Karo. [REDACTED] displeasure originated from his apparent lack of interest in her case. It appeared to [REDACTED] that Detective Karo believed she was not telling the truth, and [REDACTED] would not confess to the sexual assault if he was ever questioned about it.

To this investigator, Detective Karo's description of [REDACTED] being uncooperative is flawed. [REDACTED] repeatedly told Detective Karo she desired prosecution and answered his questions voluntarily. There was no evidence, when listening to the interview itself, that [REDACTED] refused to cooperate with Detective Karo's investigation. Although these issues may appear to be sustained based upon the interview alone, Detective Karo was allowed to offer an explanation regarding his interview and the follow-up report he submitted.

On June 25, 2015, I met with Detective Mark Karo for his follow-up interview. Detective Karo was represented by his attorney, Fern Steiner. The interview was conducted within a private conference room located in the office of Internal Affairs. Before the interview began, I provided Detective Karo with an audio copy of his interview with [REDACTED] [REDACTED]. I also provided Detective Karo with an audio copy of his Internal Affairs interview, and both the original crime report and his follow-up concerning [REDACTED] case. Detective Karo and Fern Steiner were allowed to listen to the entire interview with [REDACTED] before any questioning began.

I provided Detective Karo with the four sections of the Rules of Conduct as they pertained to Insubordination, Intervention, Departmental Reports, and Truthfulness. Detective Karo understood these policies and did not have any issues following them. I read Detective Karo the Garrity Admonishment and he was ordered to answer my questions fully and truthfully. We went on recording and the interview began at approximately 0856 hours. Below is a summary of my interview with Detective Karo. For exact details, please refer to the attached recording.

STATEMENT OF ACCUSED EMPLOYEE: DETECTIVE MARK KARO

Detective Karo confirmed he listened to his entire interview with [REDACTED] [REDACTED] prior to my questioning. I asked why he interviewed [REDACTED] over the telephone instead of an in-person interview with her parents. Detective Karo stated he tried to interview her at school but she was absent for several days. Detective Karo encountered difficulties getting a hold of [REDACTED] so he called her. I asked why he did not respond to her residence for the interview. Detective Karo did not know why. According to Detective Karo, this was the only interview he conducted with [REDACTED] while investigating her case.

I asked Detective Karo if he ever spoke to [REDACTED] parents during this investigation. Detective Karo remembered speaking with [REDACTED] father and he was upset about the case. Apparently, [REDACTED] father was upset that nothing could be done with the investigation. After Detective

Karo explained the difficulties with the investigation, [REDACTED] father understood and was no longer disappointed. I asked how he thought the interview went with [REDACTED]. Detective Karo said he became a little "frustrated" towards the end of the interview because she did not comprehend what he was trying to explain to her. Detective Karo said it was not a matter of if this incident happened, but was what he could prove.

I asked Detective Karo if he conducted himself professionally during the interview. Detective Karo said he did for the majority of their discussion. He admitted he should not have told [REDACTED] she had an "attitude" just because of the "nature of the case." When asked if he would have conducted the interview differently if [REDACTED] parents were present, Detective Karo told me he did not know. Detective Karo said when he listened to his interview, he was trying to be as "honest" with [REDACTED] as he could. Detective Karo said he would have afforded [REDACTED] parents that "same honesty."

I inquired if Detective Karo already had the suspect's telephone number before their interview. Detective Karo did not know. I told Detective Karo his report documented him checking LexisNexis and that was how he obtained the suspect's address in Washington. I asked this question because during Detective Karo's interview, he told [REDACTED] he did not have a telephone number for [REDACTED] (Suspect). If in fact Detective Karo checked LexisNexis for [REDACTED] address in Washington, which apparently he did, then [REDACTED] telephone number was also available. In order to prove this point, I obtained an Accurint/LexisNexis report for [REDACTED] [REDACTED] prior to my questioning of Detective Karo. I referred to the beginning of page four of the report which showed [REDACTED] cellular telephone number as [REDACTED]. This LexisNexis report is attached to my addendum for review if necessary.

I asked Detective Karo why he told [REDACTED] he did not have [REDACTED] telephone number when he had one the entire time. Detective Karo said he must not have reviewed the LexisNexis report in its entirety. After reviewing the LexisNexis report, Detective Karo was able to locate [REDACTED] cellular number on page four. It should be noted this [REDACTED] number was located for [REDACTED] [REDACTED] under a Chula Vista contact, which is different than the [REDACTED] number that was obtained by the Jefferson County Sheriff's Office in Washington.

I questioned Detective Karo why he told [REDACTED] he needed a search warrant to look at [REDACTED] Facebook page. Detective Karo stated he believed a search warrant was necessary to break through the Facebook system in order to view things that could be private. I explained some users of Facebook leave their private information open for public viewing. Detective Karo agreed. Detective Karo said he could have viewed [REDACTED] Facebook page to see if it was public or private.

KJ: Did you?

MK: I don't believe I did, but I don't remember exactly.



I pointed out to Detective Karo he asked the victim four separate times how she wanted her case handled, and listed the minutes and seconds for each time he asked this question. I then inquired why he continued down this line of questioning when [REDACTED] repeatedly told him she wanted [REDACTED] to be prosecuted. Detective Karo said [REDACTED] did not understand him when he explained she did not have a strong case. I told Detective Karo that the "nuts and bolts" of his investigation as they pertained to locating the suspect and obtaining a confession from him had not even started yet. Detective Karo agreed with this.

I told Detective Karo it was "abundantly clear" to me, my perception from listening to his interview, that he was trying to get [REDACTED] to tell him she did not want to proceed with this case. Detective Karo said even if [REDACTED] told him she did not want to prosecute [REDACTED] he would not close a "rape" case out with a "no pros" disposition.

KJ: *You wrote in your follow-up that she was uncooperative with you. Do you feel that way? After listening to it now, do you feel that she was uncooperative with you?*

MK: *I, I feel it was more that she was frustrated with me...*

KJ: *Rightfully so...*

MK: *So that probably wasn't the correct word to use.*

Detective Karo admitted he could see why [REDACTED] would be frustrated with him because she felt he was not doing everything to "pursue her case."

KJ: *Do you feel that she was argumentative with you?*

MK: *At times. (Pause)*

KJ: *Like? Explain...*

MK: *Um...*

KJ: *How was she argumentative with you?*

Detective Karo said towards the end of their discussion, [REDACTED] would be saying the same things over and over again, and could not understand what he was trying to explain to her. I told Detective Karo that [REDACTED] was a juvenile and did not have the sophistication to understand the criminal process. I went on to explain it was his job to explain that to her. Detective Karo told me he felt [REDACTED] was not comprehending what he was trying to say. Detective Karo mentioned maybe "argumentative" was not the right word to use.

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I brought up what Detective Karo said to [REDACTED] when she mentioned she was already going to a therapist. Earlier in the interview, [REDACTED] mentioned she had made an appointment with a therapist and would be seeing him/her the following week.

When [REDACTED] mentioned she was already in therapy, Detective Karo replied, "Okay, you told me you were gonna go into therapy." This comment by Detective Karo was unnecessary and appeared to be argumentative on his behalf. It also could indicate to [REDACTED] that Detective Karo did not believe she was being truthful in her account. This portion of his interview can be reviewed at approximately 18:30.

Detective Karo recalled making the above comment to [REDACTED] and admitted it did not help anything and was unnecessary.

I asked Detective Karo if he had a daughter, would he be satisfied if the detective interviewed her in a similar fashion. Detective Karo said other than telling [REDACTED] she had an attitude, he was factual with her. Detective Karo mentioned his interview might appear to be discouraging but the problems he was presented with were actual issues in the case.

I did not disagree with Detective Karo about this matter. However, I explained he could have worded things differently and conducted himself accordingly. Detective Karo agreed. I asked Detective Karo if he was embarrassed by this interview. Detective Karo said he wished he worded things differently and he should have been more "attentive." Detective Karo told me if he knew he could have flown to Washington to interview [REDACTED] maybe his conversation with [REDACTED] would have been different. Detective Karo said when he listened to his interview again, it appeared he was not interested in [REDACTED] case and he conveyed that to her. Detective Karo said he should not have done that.

KJ: *Can you see how someone in my position may review that interview and it sounds like you're trying to get her to say I don't want to prosecute?*

MK: *Yes.*

I questioned Detective Karo about his use of the word "uncooperative" in his report when he described [REDACTED]. I asked how she was uncooperative because from listening to the interview, [REDACTED] appeared to be very cooperative. Detective Karo mentioned there were inconsistencies with her statement to another deputy. After explaining how commonplace that was and how it was his job to clarify those inconsistencies, Detective Karo said he used a poor choice of words. Detective Karo ended the interview by saying he made some mistakes and could have done some things better.

The interview was concluded at approximately 0933 hours with an order not to disclose.



INVESTIGATION (CONTINUED):

When reviewing Detective Karo's interview with [REDACTED] [REDACTED] it is this investigator's belief that his conduct was neither professional nor appropriate for the situation. Detective Karo undisputedly attempted to sway [REDACTED] towards not prosecuting her case. He not only mentioned all of the roadblocks for a successful prosecution, but he tried to illicit her to drop the case on four separate occasions. Detective Karo appeared to become frustrated with [REDACTED] when she repeatedly requested prosecution, commendably, she was asking him to do his job. Not only did he communicate his displeasure with her case, but commonly gave her inaccurate reasons why he could not successfully proceed. This rose to the point of debating semantics and simply becoming argumentative with the victim.

The following Department policy would be applicable to the allegation above:

2.4 Unbecoming Conduct

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on this Department. Unbecoming conduct shall include that which tends to bring this Department into disrepute or reflects discredit upon the employee as a member of this Department, or that which tends to impair the operation and efficiency of this Department or employee.

The burden of proof for an administrative case is "preponderance of evidence" which is defined as "such evidence, when weighed with that opposed to it, has more convincing force and the greater probability of truth."

His use of words and conduct throughout this interview revealed his lack of interest which was undeniably noticed by [REDACTED]. At one point in the interview [REDACTED] suggests to Detective Karo that it appears he is not doing everything to help her. Although this was a difficult case to be assigned, it was still a workable investigation which could have ended with a successful prosecution.

Professional investigators must understand the different obstructions throughout an investigation and act accordingly. Very few cases are perfect. By listening to Detective Karo's interview, it would appear to a reasonable person that his enthusiasm was severely lacking and his intent was to close the case quickly. This conduct does not meet the high standards that are required of an investigator on this Department. His conduct with a juvenile victim of sexual assault most certainly did not reflect favorably upon this Department, or himself as an employee.

Another aspect to examine must include Detective Karo's follow-up report. When reading his report on face value, it appears Detective Karo was dealing with an upset victim who did not

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want to cooperate with him. Essentially, Detective Karo illustrates this to be a difficult case with no victim collaboration. When listening to his interview, Detective Karo's account is not accurate. The victim in this case, [REDACTED] repeatedly requests prosecution and cooperates with Detective Karo throughout the interview. She voluntarily answers all his questions and even points out certain investigative avenues he should approach. Detective Karo contests her suggestions with inaccurate information.

The following Sheriff's Department Policy section would be applicable to the allegation above:

2.41 Departmental Reports

Employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included.

When reading Detective Karo's report, he portrays [REDACTED] demeanor inaccurately. [REDACTED] was most definitely cooperative with Detective Karo during his investigation. [REDACTED] did become upset with Detective Karo only after being told repeatedly her case was not prosecutable. Detective Karo presented this decision to [REDACTED] before the suspect was even contacted. [REDACTED] dissatisfaction with Detective Karo was justified by all means. Unfortunately, Detective Karo documented [REDACTED] demeanor in an improper light, and an accurate portrayal was absent in his report.

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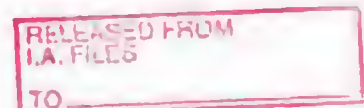
This allegation against Detective Mark Karo is **SUSTAINED** as it relates to Sheriff's Policy and Procedure **Section 2.4 – Unbecoming Conduct**, in that: Detective Karo conducted himself in an unprofessional manner when interviewing [REDACTED] a juvenile victim of sexual assault (CN [REDACTED]). Detective Karo attempted to persuade [REDACTED] into not prosecuting her case repeatedly during their interview. Detective Karo engaged in an improper debate with the victim when discussing her case, which made his disinterest in the investigation apparent to the victim. This brought discredit to both this Department and to Detective Karo.

This allegation against Detective Mark Karo is **SUSTAINED** as it relates to Sheriff's Policy and Procedure **Section 2.41 – Departmental Reports**, in that: Detective Karo portrayed [REDACTED] as being uncooperative with him during the investigation. This account is inaccurate when reviewing their recorded interview. [REDACTED] was very cooperative with Detective Karo and repeatedly requested prosecution in her case. She advised Detective Karo about several investigative techniques which were ultimately denied. She answered all of Detective Karo's questions voluntarily and appeared to be forthcoming during their discussion.

Submitted by: 14#2406, Sgt. 6/26/15
K.W. Jones, Sergeant Date

Approved by: 6/26/2015
Christine Harvel, Lieutenant Date

CH:kwj



COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Report generated on 10/30/2014

CONFIDENTIAL

Name: KARO, MARK A

POST ID: C13-T82

Sex: M

Agency: SAN DIEGO CO SD

Race: W

AKA: NO ALTERNATE NAMES ON FILE

Certificates

Cert	Type	Awarded	Edu	T	T+	Comments
138556	B	04/13/2009	0	47	0	
123913	I	10/11/2013	57	0	8	51 00 @ San Diego Miramar College 6 00 @ Palomar College
Total Number of Certificates: 2						

Employment

Hired From	To	R	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas.
10/11/2007			DPT	10/11/2007	37000	SAN DIEGO CO SD	F	P	
R = Reason for Separation: 1 = Resignation, 2 = Discharge, 3 = Retirement, 4 = Death, 5 = Felony, 6 = Other, 7 = Promotion.									

Training

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
10/11/2007	A	2410-00100-06-004	936	-	Y	37000	SDLETC		BASIC COURSE-INTENSIVE
01/10/2008	K	4690-30995-07-002	10	-	Y	37000	SDSO		LESS LETHAL WEAPONS
01/25/2008	K	4690-29709-07-010	24	-	Y	37000	SDSO	*	PSP: TASER & ETHICS
05/20/2008	K	3880-30816-07-002	16	-	Y	37000	SDDA-FRAUD		IDENTITY THEFT INVESTIGATION AND PROSECUTION
07/16/2008	K	5890-30252-08-001	4	X	Y	37000	OPD		VEHICLE RACING/MOD.VEH.ENFORC
08/27/2008	K	4690-22220-08-001	8	-	Y	37000	SDSO		DRUG INFLUENCE - 11550 H&S
02/04/2009	K	4690-31811-08-004	24	-	Y	37000	SDSO		FIREARMS/SEMI-AUTO RIFLE
09/17/2009	K	4690-20280-09-001	24	-	Y	37000	SDSO		DUI-DRIVING UNDER INFLUENCE

* Marks Denoteable Skills

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
03/23/2012	K	2400-33610-11-001	80	-	Y	37000	S DIEGO PD		TRAFFIC COLLISION INV. ADV
05/08/2012	K	9180-25580-11-313	4	X	Y	37000	POST		DOMESTIC VIOLENCE: ITS YOUR CALL, VOL. 1 (WEB)
06/03/2012	K	9180-25581-11-339	8	X	Y	37000	POST		DOMESTIC VIOLENCE: ITS YOUR CALL, VOL. 2 (WEB)
06/04/2012	K	9180-25582-11-340	8	X	Y	37000	POST		SEXUAL ASSAULT: THE PATROL RESPONSE (WEB)
12/14/2012	K	2330-33670-12-001	80	-	Y	37000	S BRNDO SO		TRAFFIC COLLISION-RECONSTRUCT
11/06/2013	K	9070-31521-13-001	24	-	Y	37000	SDRTC		CHILD ABUSE INVESTIGATION, ADV
11/07/2013	K	3680-24270-13-001	8	-	Y	37000	GROSSMONT		SEARCH-ARREST WARRANT
12/04/2013	K	9070-32322-13-001	24	-	Y	37000	SDRTC		CHILD ABUSE/SEXUAL ASSAULT/ADVANCED
01/10/2014	K	7920-32340-13-002	40	-	Y	37000	CSU-SAC		CHILD ABUSE
02/04/2014	K	2410-29509-13-012	16	X	Y	37000	SDLETC	*	ARSTCTL/FIREARM/DRVTNG/TACCOM(
02/05/2014	K	2410-21785-13-010	10	X	Y	37000	SDLETC		TACTICAL COMBAT CASUALTY CARE/BUILDING SEARCHES/K9
09/12/2014	K	7140-31445-14-001	40	-	Y	37000	I&I INSTITUTE	*	INTERVIEW & INTERROGATION

* Meets Perishable Skills

Footnotes

No Footnote on file.

Detective Karo's body of work for 2013 began in May of 2013 with case number [REDACTED]. This first case was a call out that he seems to have handled on his own and involves a disclosure made by a 3 year old girl that her uncle "Rubbed and played with her vagina." Det. Karo had a forensic and SART conducted and also interviewed the victim's mother and father.

Det Kara states he made several attempts to locate the uncle and left repeated phone calls and has not had any success in locating him. Karo re-contacted the victim's mother who no longer wants to proceed with the case and does not believe the allegation and does not know where the uncle is. It does not appear Karo attempted any LE database checks on the Uncle. This needs a 2nd look to see if the uncle has a criminal past and re-contact the victim's parents.

On Karo's 3rd case in Child abuse he seems to follow the pattern of both [REDACTED] and [REDACTED] in that it relies heavily on the Social worker. In case [REDACTED] an anonymous referral is made alleging a 14 year old boy is exposed to drugs and that his mother is a drug addict and prostitute and the mother may have tried to touch the boy's penis. Karo makes no attempt to talk to the 14 year old victim or his mother and closes the case with; "Due to having no way of contacting the reporting party reference the allegations of [REDACTED] attempting to touch her son's penis, this case will be closed as Department Closure." The case should be re-opened and at least do a welfare check at the home.

Karo went the rest of 2013 where he appeared to do some decent work with minimal issues and some poor documentation to a few cases that need to be re-looked at. We would summarize that Karo's entire assignment to Child abuse could be classified as standard to sub-standard. He wrote many one page reports where he did not interview any of the involved parties, did not conduct very many criminal history checks, and relied heavily on the work done by the assigned social workers. The remaining cases below need additional follow-up and should be looked at by a skilled investigator.

██████████ 7 year old boy walked into a school bathroom and saw two other 7 year old boys engaged in oral sex. Karo got the case from a patrol crime report and only talked to the assigned social worker, one parent and the school principal. Karo made no attempts to have any of the boys forensically interviewed and relied on the interviews done by the principal and social worker.

██████████ This case was bothersome in the fact that Karo wrote a one page report and unfound the allegation and only spoke to the assigned social worker. In this referral an anonymous caller reported that her unnamed four year old step-granddaughter visits another two year old, "██████████" who lives with her grandparents in Ramona. The caller stated her step-granddaughter (The 4 Year old) was molested at the home by ██████████ grandfather ██████████. The caller also said that ██████████ grandparents are heavy methamphetamine users and they have given methamphetamine to her step-granddaughter to smoke. The caller did not provide any other information. Karo notes that the referral says the caller seemed to ramble, went on a tangent, and could barely finish a sentence.

Karo noted that the case was assigned to CPS and that there were "No child abuse priors for ██████████ ██████████ in the Sheriff's NetRMS system."

Karo spoke to CPS who said they responded, interviewed all involved and there are no signs of any drug abuse whatsoever in the home. ██████████ is babysat by her grandparents 3-4 days a week and they behave appropriately. ██████████ did not disclose any abuse by anyone and there are no signs that any abuse is occurring. ██████████ grandparents had ongoing problems with a neighbor at their former apartment complex and it is believed this may be the reporting party.

Karo made no attempts to contact the family and did not run a criminal history check on the Grandfather ██████████. If he had he would have found an extensive criminal history of drug abuse and currently has a revoked/suspended license.

██████████ This is another one page report where Karo did not interview anyone. And relied on the social worker's interviews who concluded that this was not a criminal matter.

██████████ Another one page report where he relies on the Social worker to complete the interviews. This case involves a disclosure from an 8 year old, who said a 10 year old neighbor licks the 8 year olds genitals. He closes the case unfounded without any type of interview.

██████████ Another one page report where Karo gets a referral of a 4 year old disclosing that his grandfather, ██████████ is exposing his genitals to the 4 year old. Karo talks to the mother who said she does not desire prosecution, but goes on to say that her father, ██████████, often makes inappropriate comments to her and she has always had a weird feeling about him. The mother/daughter no longer has contact with her father and is concerned for her brother's children who live with the grandfather in Live Oak Ca. The mom said she talked to her brother who has spoken to his children and they did not make any disclosures of abuse. Karo does not appear to have run the grandfather for prior criminal history and we cannot tell if he referred the case to Live Oak.

Mark Karo Case Review

Detective Mark Karo is 34 years old, is an 8 year Sheriff's veteran and has been in Child Abuse since 5/3/2013. His previous assignment was Poway Traffic.

In reviewing Detective Karo's cases, I believe several of the cases should not have been assigned to a detective. Several of his cases involved him contacting the CWS worker involved in the case and based on their investigation, closing the case without any investigation of his own. This is an accepted practice but Detective Karo seems to use this in situations I believe he should have been more proactive. Detective Karo does the minimum work necessary to close a case. Even in cases that Detective Karo investigated, he is overly dependent on the CWS worker to contact the individuals involved and to do interviews.

Detective Karo either does not understand or does not care that it isn't unusual for victims to have issues including lying, having a bad attitude, being argumentative, using drugs and alcohol, running away, or recanting. These things do not mean they were not victims. Victims are often worried about how their family is reacting or will react to their disclosure and recant. Sometimes it is the detective's job to walk/encourage victims through this terrible process.

Detective Karo's case count for 2014 consists of:

7 Open cases

1 Suspended case

40 Closed cases (Several of these should not have been assigned to a detective)

Case samples:

██████████ 10 year old victim was disciplined by father. Father hit victim on back 2-3 times leaving a handprint on his back, possibly bruising. The injury was photographed by mother and the next day by CWS. CWS contacted and talked to involved parties. Detective Karo did not talk to victim relying on the unrecorded interview by CWS. Detective Karo did interview Father in person. There is no indication of Miranda or Beheler. Suspect confessed. Case was submitted to DA.

██████████ Case involved 17 year old disclosing abuse by brother about 12 years ago. Victim would have been 5-6 and suspect 8 years old. Detective Karo explained "Numerous attempts to contact ██████████ have gone unanswered", but did not list dates nor times of these attempts. The

case was initially submitted for approval without contact with the victim. We looked at the case on 6/29. The case had been kicked back by [REDACTED] stating a letter needed to be sent to victim in an attempt to contact. The same day the case was resubmitted with the victim being contacted by phone and stating she did not want the case to go any further.

* [REDACTED] After child returned home from being with father, Mother noticed, what appeared to be a bite mark on child's forearm. Child disclosed being bitten on arm by father while he was mad. Mother also found bruise on right side of torso. Mother took two photographs of bite mark with phone and later emailed to detective. The explanation from victim changed when talked to by CWS with victim stating they were playing when father bit him. Suspect should have been contacted. Detective Karo closed case without contacting father (suspect). Detective Karo also writes in his report "The photos were unclear and I was unable to discern obvious marks or bruising on [REDACTED] arm." The photos were reviewed by Sergeants Norton, Blankenbaker, Lieutenant Brown, Captain Hernandez and I. We all saw what appeared to be an adult bite mark on the forearm of the child. While the photos were not clear, they warranted a more thorough investigation by Detective Karo.

* [REDACTED] Detective Karo was called out to Children's Hospital for a 3 year old with burns to his genital and thigh area. Detective Karo's interview of [REDACTED] a witness was lacking a lot of information that either is not documented or was not asked for. Other than a BOL very little was documented in regards to Detective's attempts to locate the suspect.

After case was sent to District Attorney's Office Detective Karo had Mother of victim, [REDACTED] conduct a controlled phone call. Detective Karo did not follow up on or check any of the information provided by suspect.

Detective Karo did not attempt to contact Suspect by telephone even after having number for controlled phone call.

Questions that should be asked of all individuals in these types of cases: Who takes care of the children. Who changes diapers? Is it normal for suspect to give victim shower. Does suspect discipline child? Who had access to child when injury occurred. Where is the suspect?

* [REDACTED] Courtesy report from SDPD. Victim was 14 year old disclosing Grandfather molested her when she was 10 year old. Child has had issues with lying and mental health. Family has labeled her as a problem child and believes she makes things up to get out of trouble. Victim was willing to do controlled phone call. It was obvious victim did not want anything done to her grandfather because she was worried about family's reaction. Detective Karo should have contacted victim and considered options for investigation. A lot of victims are not perfect and have issues including lying, stealing, running away, alcohol and drug abuse. These are not reasons to close a case.

* ██████████ Case involved 4 year old child disclosing sexual abuse by mother's boyfriend. Detective Karo did not interview parents nor the suspect in this case. In the Forensic Interview child states his mother told him that ██████████ did not touch him and not to say that. It appears the child recanted and did not disclose due to this. Detective Karo did not talk to mother about this issue and it appears he did not notice. Could have had a second interview conducted.

██████████ Now 18 year old victim disclosed being molested 10 years ago by 15 year old Suspect, who was living in home. Detective Karo states he attempted to contact victim 6 times but failed to document dates and times. He did not attempt to contact at residence but sent a letter. Case was suspended pending "further investigative leads."

Notes while reviewing cases:

- ██████████
 1. ██████████ assigned
 2. Good case
- ██████████
 1. ██████████ assigned
 2. Case should not have been assigned – No criminal history
- ██████████
 1. ██████████ assigned
 2. Ok - Could have completed background for prior history
- ██████████
 1. Case forwarded to San Diego PD
- ██████████
 1. ██████████ assigned
 2. Did not interview suspect or conduct criminal history, Suspect was a Police officer. No injuries reported.
- ██████████
 1. ██████████ assigned
 2. Did not conduct criminal history
- ██████████
 1. ██████████ assigned
 2. Did not interview any involved parties / Did not run criminal histories / 17 year old victim should not be a CAU case I believe it should be an area detective case / Det did not address conflicting statements
- ██████████
 1. ██████████ assigned

2. Suspect interview was by telephone

- [REDACTED]
 - 1. Ok
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Should not have been assigned CPS handles
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Ok
- [REDACTED]
 - 1. [REDACTED] assigned – Prior case by [REDACTED] –
 - 2. Ok- Should not have been assigned
- [REDACTED]
 - 1. [REDACTED]
 - 2. Original case by Det Mays
 - 3. Assisted with forensic interview
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Sent to National City PD
- [REDACTED]
 - 1. Should not have been assigned
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Should not have been assigned / Det does no work
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Should not have been assigned / No work / CPS should handle
- [REDACTED]
 - 1. [REDACTED] assigned
 - 2. Det did not do any work / No interviews / No backgrounds run
 - 3. Victim told SDPD she was willing to do controlled phone call – Not done
 - 4. Obvious victim was worried about family's reaction and that was reason she did not want anything done to her grandfather.
- [REDACTED]
 - 1. Callout
 - 2. Could have gotten search warrant – Did not get suspect statement first day
 - 3. Det should listen to jail phone calls
 - 4. Did not run people would have found suspect had warrant

- [REDACTED]
 1. [REDACTED] assigned
 2. Easy case – No disclosure – Did not talk to anyone
 3. Case should not have been assigned prior to talking to CPS
 4. Since case was assigned Detective should have called mother and had her explain why child is witnessing sex acts.
- [REDACTED]
 1. [REDACTED] assigned
 2. Stated arrest when DA decided to issue – Not an arrest
 3. Simple case
- [REDACTED]
 1. [REDACTED] assigned
 2. Did not seem to answer questions relating to referral
 3. Did not complete interviews – No suspect interview in shaking baby case.
 4. Waited a week to call mother – seems to wait for CPS to do the work
 5. Did not run criminal histories
- [REDACTED]
 1. [REDACTED] assigned
 2. No interviews
 3. Called CWS and closed case because child recanted to CWS
 4. Probably should have contacted Victim 6yrs old, not unusual for children to recant.
- [REDACTED]
 1. [REDACTED] assigned
 2. Could have talked to victim who is 17
- [REDACTED]
 1. [REDACTED] assigned
 2. Sent to SDPD
- [REDACTED]
 1. Phone interviews including suspect.
 2. Suspect said he would take a polygraph- did not sign up
- [REDACTED]
 1. Should have talked to suspect based on statement from victim.
 2. Should have conducted criminal history
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned
 3. Did nothing -read and closed case - appropriate

- [REDACTED]
 1. Did not talk to anyone – except mother
 2. Did not run criminal history
 3. We looked at photo and saw bite mark – Det said he could not see bite mark and closed case
- [REDACTED]
 1. Easy case – No work required
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned
- [REDACTED]
 1. [REDACTED] assigned
 2. PSW conducted investigation – Called 5 days later did no work
 3. No background
 4. Should not have been assigned – no injury only complaint of pain
- [REDACTED]
 1. PSW conducted investigation- Waited 3 weeks to call
 2. No interviews – No criminal backgrounds check
 3. Should not have been assigned due to lack of injury
- [REDACTED]
 1. [REDACTED] assigned
 2. No interviews – No background checks
- [REDACTED]
 1. Made arrest for Det Reden
- [REDACTED]
 1. [REDACTED] assigned
 2. Called vic mom 2 weeks after assigned, parents handling with suspect's parents
 3. PSW handled
- [REDACTED]
 1. [REDACTED] assigned
 2. Suspended case without attempting home visit
- [REDACTED]
 1. [REDACTED] assigned
 2. Should have interviewed parents
 3. interview suspect [REDACTED]
 4. Suspended too early

5. In Forensic Interview child states his mother told him that [REDACTED] did not touch him and not to say that. I am concerned the child recanted and did not disclose due to this.

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Mark Karo Case Review

- [REDACTED]
 1. [REDACTED] assigned
 2. Good case
- [REDACTED]
 1. [REDACTED] assigned
 2. Case should not have been assigned – No criminal history
- [REDACTED]
 1. [REDACTED] assigned
 2. Ok - Could have completed background for prior history
- [REDACTED]
 1. Case forwarded to San Diego PD
- [REDACTED]
 1. [REDACTED] assigned
 2. Did not interview suspect or conduct criminal history
- [REDACTED]
 1. [REDACTED] assigned
 2. Did not conduct criminal history
- [REDACTED]
 1. [REDACTED] assigned
 2. Did not interview any involved parties / Did not run criminal histories / 17 year old victim should not be a CAU case I believe it should be an area detective case / Det did not address conflicting statements
- [REDACTED]
 1. [REDACTED] assigned
 2. Suspect interview was by telephone
- [REDACTED]
 1. Ok
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned CPS handles
- [REDACTED]
 1. [REDACTED] assigned
 2. Ok
- [REDACTED]
 1. [REDACTED] assigned – Prior case by [REDACTED] –
 2. Ok- Should not have been assigned
- [REDACTED]
 1. [REDACTED]
 2. Original case by Det Mays

3. Assisted with forensic interview

- [REDACTED]
 1. [REDACTED] assigned
 2. Sent to National City PD
- [REDACTED]
 1. Should not have been assigned
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned / Det does no work
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned / No work / CPS should handle
- [REDACTED]
 1. [REDACTED] assigned
 2. Det did not do any work / No interviews / No backgrounds run
- [REDACTED]
 1. Callout
 2. Could have gotten search warrant – Did not get suspect statement first day
 3. Det should listen to jail phone calls
 4. Did not run people would have found suspect had warrant
- [REDACTED]
 1. [REDACTED] assigned
 2. Easy case – No disclosure – Did not talk to anyone
- [REDACTED]
 1. [REDACTED] assigned
 2. Stated arrest when DA decided to issue – Not an arrest
 3. Simple case
- [REDACTED]
 1. [REDACTED] assigned
 2. Did not seem to answer questions relating to referral
 3. Did not complete interviews
 4. Waited a week to call mother – seems to wait for CPS to do the work
 5. Did not run criminal histories
- [REDACTED]
 1. [REDACTED] assigned
 2. No interviews
 3. Called CPS and closed case
 4. Did not run anyone
- [REDACTED]
 1. [REDACTED] assigned
 2. Could have talked to victim who is 17

- [REDACTED]
 1. [REDACTED] assigned
 2. Sent to SDPD
- [REDACTED]
 1. Phone interviews
 2. Suspect said he would take a polygraph- did not sign up
 3. No record in NetRMS?
- [REDACTED]
 1. Should have talked to suspect
 2. Should have conducted criminal history
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned
 3. Did nothing -read and closed case
- [REDACTED]
 1. Did not talk to anyone – except mother
 2. Did not run criminal history
 3. We looked at photo and saw bite mark – Det said he could not see bite mark and closed case
- [REDACTED]
 1. Easy case – No work required
- [REDACTED]
 1. [REDACTED] assigned
 2. Should not have been assigned
- [REDACTED]
 1. [REDACTED] assigned
 2. PSW conducted investigation – Called 5 days later did no work
 3. No background
- [REDACTED]
 1. PSW conducted investigation- Waited 3 weeks to call
 2. No interviews – No criminal backgrounds check
 3. Should not have been assigned due to lack of injury
- [REDACTED]
 1. [REDACTED] assigned
 2. No interviews – No background checks
- [REDACTED]
 1. Made arrest for Det Reden
- [REDACTED]
 1. [REDACTED] assigned
 2. Called vic mom 2 weeks after assigned
 3. PSW handled

- [REDACTED]
 1. [REDACTED] assigned
 2. Suspended case without attempting home visit
- [REDACTED]
 1. [REDACTED] assigned
 2. Criminal background check?
 3. Should have interviewed parents
 4. Attempt to identify and interview suspect [REDACTED]
 5. Suspended too early

Case Number	Priority	Detective	Current Detective	To Be Completed
[REDACTED]	Karo		Carrillo	LE database checks, suspect has a criminal past, recontact victim's parents
	Karo		Carrillo	Case should be reopened and at least do a welfare check at the home
	Karo		Carrillo	Attempt forensic interview
	Karo		Licudine	Conduct criminal history check on the grandfather, [REDACTED]. Recontact victim and victim's family.
	Karo		Licudine	Review entire case.
	Karo		Licudine	Forensic interview.
	Karo		Licudine	Ensure Live Oaks, CA LE agency is 10-4 on this case.
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

Duckworth
21 pages
✓

June 10, 2014

TO: Jeffrey Duckworth, Lieutenant
Family Protection Detail

FROM: [REDACTED]
Child Abuse Unit

CHILD ABUSE UNIT ISSUES

I have been a Deputy Sheriff for the past [REDACTED] years, the last [REDACTED] years as a detective. I was assigned to the Child Abuse Unit [REDACTED] years ago. In that time I have investigated over five hundred child abuse cases.

Per our discussion, I have outlined below, concerns I have regarding inappropriate conduct by some personnel in the Child Abuse Unit.

I am aware that child abuse [REDACTED] and Mark Karo are not performing their duties in a manner that meets the goals and objectives of the unit, the Department or public interest. It is apparent these detectives are not conducting thorough, competent investigations, either because they do not possess the skills, are not motivated to do so, or a combination thereof.

Superior interviewing and interrogation skills are of the utmost importance as a child abuse investigator, since a large portion of cases contain no physical evidence or factual corroboration. Child abuse cases quite often hinge on the investigator's ability to obtain a suspect confession. It is also important that investigators search for additional victims in order to support the current allegations and to hold suspects accountable for any additional crimes.

A child abuse detective's duty is not only to investigate crimes, but to convince (often very young) victims to participate in a criminal proceeding and to support them throughout the entire process. Many times a child abuse detective must act as a surrogate parent; especially when the child's own parents are the suspects.

It is extremely easy for a child abuse detective to convince a victim not to participate in a criminal investigation or court proceeding. I have personally seen and/or heard this occur over the years, involving several different detectives. It is also very easy for a detective to manipulate situations behind the scenes or intentionally leave information out of a report that makes it

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appear the case was properly closed. Unfortunately, this has been a tactic used by some child abuse detectives. A full investigation may ultimately show whether or not these specific tactics have been used by [REDACTED] Karo. Based on their known behavior, it is a reasonable possibility that one or more of them have already used these tactics, or will resort to these strategies if allowed to remain in the unit.

FACTS AND OPINIONS:

[REDACTED]

[REDACTED]

[REDACTED]

I later approached [REDACTED] and let him know I made a template for our detective follow-up reports that included each portion of the background and criminal history information needing to be researched on each child abuse case assigned to a detective. I suggested that having detectives include this in each report would alleviate the issue of some detectives failing to research this important information. [REDACTED] stated he would not suggest or require that other detectives include this information in their reports.

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I realized at this point that it would be prudent to begin documenting events, and I began making entries by date. By this time there had already been numerous incidents and situations. The following represents only a small but noteworthy portion of events that have occurred.

05-03-13

Detective Mark Karo was assigned to the Child Abuse Unit.

09-05-13

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12-11-13 and 12-12-13

[REDACTED]

I did not run daily case counts for [REDACTED] or Detective Karo in December of 2013. However, the monthly Detective Assignment Record for [REDACTED] shows she had (2) open cases at the end of December. The record for Detective Karo shows he had (2) open cases. [REDACTED] and Detective Karo also did not volunteer to take cases or assist Castro with his evidence processing request.

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- This is very typical of [REDACTED] [REDACTED] Karo. They do not volunteer to assist others, regardless of their lack of workload.

12-30-13

Detective Karo told me that the previous Friday (12-27-13) he, [REDACTED] [REDACTED] [REDACTED] were the only child abuse detectives on duty. Per Karo, he was assigned four cases that day. Later the same day, [REDACTED] told Detective Karo he was going to assign him a fifth case (# [REDACTED] - bruising and rib fracture to a 3 month old) that needed an immediate response based on the nature of the case. Detective Karo talked to [REDACTED] about being assigned five cases in a single day, one of which was a callout. He brought to [REDACTED] attention that [REDACTED] were also working and were available.

[REDACTED] decided not to assign the callout to Detective Karo. He also decided not to assign the callout to [REDACTED] either, although they were in the office. [REDACTED] assigned the case to Detective Bloch, who did not return to work until Monday 12-30-13.

- It is unknown why [REDACTED] did not assign the callout to [REDACTED] [REDACTED]. It has been discussed among detectives in the unit that it is a likely possibility they are not trusted to work important or major cases and the sergeants therefore refrain from assigning these cases to them. If this is correct, they obviously should not be working in the child abuse unit.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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01-29-14

██████████ advised me that all CID cases were to be audited before a new Captain arrived. He told me to suspend any cases that could be suspended. Per Detective Castro, ██████████ told him he didn't care if people did the minimum on their cases as long as they get them closed.

- o This is a classic example of how some detectives in this unit have been allowed and even encouraged to simply close cases without conducting a proper investigation. ██████████

02-06-14

Detectives Mays, Castro and I had previously discussed our various attempts to bring issues to the sergeants, and the fact that they did not want to listen. We discussed going to ██████████ as a group in an attempt to initiate action. Mays and Castro expressed concern about the possible ramifications based on ██████████' defensive and sometimes hostile reactions. However, they reluctantly agreed to participate at that time.

On this date, I talked to Detective Mays about our previous plan to confront the sergeants as a group. He said, "I don't want to be involved." At this point Mays and Castro decided not to involve themselves in further attempts to resolve the issues as long as ██████████ remained in the unit, out of fear of retaliation.

02-26-14

While conversing with ██████████, I mentioned the fact that a detective routinely maintaining a very low case count was not a good sign in the child abuse unit. ██████████ said he knew what I was referring to and that he and ██████████ looked into that issue since I had, "planted the seed." ██████████ said the investigation showed there was no issue.

- o Had ██████████ conducted even a remotely thorough investigation, they could not have reasonably concluded there was no issue. A cursory review of follow up investigations routinely submitted by ██████████ Karo would make it clear that their follow up investigations are significantly lacking. Additionally, it would not have been necessary for ██████████ to conduct this supposed investigation since they were already approving every report written by these detectives.

The same day, Detective Castro advised me that ██████████ recently told him, "Things are changing around here" (referring to newly assigned Lt. Duckworth) and that Castro needed to get his case count down. ██████████ told Castro he didn't care how he did it, just get the cases closed.

- o ██████████ statement to Castro is essentially the same as ██████████ statement to Castro, as documented above on 01-29-14. Again, it is a clear example that the sergeants have no compunctions about child abuse cases being closed without a proper investigation.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

03-25-14

I asked Castro if anyone responded to his latest request (at our last bi-weekly meeting) for assistance in reviewing tapes, CD's, DVD's, etc., from his search warrant. He said no one did. We talked about the fact that [REDACTED] Karo should have responded to his request for assistance since they always have a low case count. Castro agreed, but said he wouldn't have trusted [REDACTED] to properly review the media.

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- As of 03-31-14, six days after my conversation with Castro, [REDACTED] had (8) open cases, [REDACTED] had (2) open cases and Detective Karo had (4) open cases. Castro had (33).

- [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

04-09-14

Detective Karo advised me he had (0) open cases. He told me not to tell anyone because he didn't want to be assigned more cases. I expressed to Detective Karo that he should offer to help Detective Mays (who was recently selected for the Homicide Unit) and/or Detective Castro with their cases since he (Karo) had none. Detective Karo told me he didn't want to assist them during the work week because he would rather do it on the weekends for overtime. Karo advised me he had recently assisted Detective Castro with a case while being paid overtime during a weekend.

- o Per my conversations with Mays and Castro, Detective Karo never offered to assist them with cases (during regular work hours), nor did he take any cases from them, although he had no cases of his own.

04-10-14

Detective Mays and I talked about Detective Karo's work performance. We discussed the fact that it was not possible for Karo to conduct proper investigations and have (0) cases. Mays told me he recently read some of Detective Karo's cases, and it was clear he did not put much effort into his investigations. I commented that Detective Karo's conduct was essentially the same as that of [REDACTED]. Mays agreed.

[REDACTED]

[REDACTED]

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o

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

o

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DISCUSSION:

It has been mentioned by several detectives that [REDACTED] routinely interview suspects by phone and close cases once they do not obtain confessions. Detective Shands from the Sexual Assault Unit told me she routinely hears Detective Karo interviewing suspects via phone from his desk, as well as essentially convincing victims and their families not to be involved in a criminal proceeding. A widely accepted principal in the

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investigative community is that every effort should be made to interview suspects in person, at a law enforcement facility. It is unknown why [REDACTED] [REDACTED] and Karo routinely interview suspects by phone. It has been suggested by some that they do not *want* a confession, since this would result in additional work being required on the case.

[REDACTED]

I ran NetRMS Detective Assignment Records for each month that [REDACTED], [REDACTED] and Detective Karo have been assigned to the Child Abuse Unit. These records show that [REDACTED] [REDACTED] has averaged 5.3 open cases per month, [REDACTED] [REDACTED] has averaged 4.7 open cases per month, and Detective Karo has averaged 3.6 open cases per month during their respective tenures in the unit. I also ran NetRMS Detective Assignment Records for former CAU detectives Chris Cross and Matt Mays, both of whom are widely recognized as being thorough and competent detectives (Mays was recently chosen as a detective in the Homicide Unit and Cross was recently promoted to Sergeant). I selected twelve-month periods for Cross and Mays that were approximately in the middle of each of their tenures in the Child Abuse Unit. NetRMS Detective Assignment Records for Cross show that he averaged 18.5 open cases per month during the twelve month period. Mays' records show that he averaged 18.4 open cases per month during the twelve month period.

Note: [REDACTED] # [REDACTED]

- The significant disparity in open cases is exacerbated when considering that in addition to working full shifts each day, Mays and Cross routinely worked a significant amount of overtime (both paid and unpaid) in order to maintain their case load averages at *only* eighteen.
- As stated previously in this document, any rational/competent detective that has worked in the Child Abuse Unit can confirm the above statistics indicate there is a significant cause for concern regarding [REDACTED] [REDACTED] and Detective Karo. Past and present CAU detectives I have discussed these issues with agree these detectives could not be conducting thorough and complete investigations; calling the situation a, "Red flag."

I then reviewed some recently closed cases that were investigated by [REDACTED], Karo and [REDACTED]. I noticed there were a significant number of cases in which the victims were purportedly unwilling to participate in an investigation. Some cases specifically stated the suspect was interviewed by phone, others did not denote whether the interview was in person or by phone. Most of the time, there was no mention of criminal histories or other background

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information being researched, nor were there any documents attached within the cases to indicate this research was done. I noted there were a particularly high number of cases assigned to these detectives that were very simple in nature.

I selected three cases each for Detectives Karo, [REDACTED] and [REDACTED] that are clear examples of what is discussed in this document. It is important to note that eight of the nine cases were approved by [REDACTED].

DETECTIVE KARO

Case # [REDACTED]

A Child Welfare Services (CWS) referral indicated a four year old male was observed touching the buttocks of another child at school. When school officials asked about his behavior, the child stated his uncle [REDACTED] pulls down his pants and touches him in the front and back, and that it hurts. The report indicates that during a home visit by CWS, the child again disclosed that the suspect (mom's boyfriend) pulls down his pants and touches him; at night in the bedroom.

Detective Karo states in his report that the child denied any inappropriate touching during a forensic interview and that, "Based on the lack of disclosure during the forensic interview... Due to the lack of evidence in this criminal case, it will be suspended pending further investigative leads."

I reviewed the forensic interview summary written by social worker [REDACTED]. This report states, "When asked if someone else had pulled down his pants, he said, '[REDACTED] doesn't pull down my pants or anything.' "Child said that he told his teacher that [REDACTED] pulled his pants down and that his mom got mad at him." He said, "I got in trouble because [REDACTED] didn't pull me." Child said that his mom told him, "He doesn't pull your pants down, he only plays with your puzzles and your toys." His mom told him, "Don't talk like that."

The statements made by the victim during the forensic interview are strong indicators that the child was pressured by his mother to refrain from disclosing the abuse her boyfriend perpetrated against him. The child disclosed sexual abuse by [REDACTED] both to school officials and during a home visit with CWS. The fact the child then refrained from disclosing the abuse a third time during the forensic interview is essentially irrelevant based on the circumstances.

It is very likely the child has been a victim of sexual abuse. This case should have been further investigated. At minimum, an in-person suspect interview as well as an interview of the child's mother should have been conducted.

Case # [REDACTED]

A CWS referral indicating the mother of a two year old female routinely uses intravenous drugs with the child present. It was noted that drugs and needles were within the child's reach on the kitchen table. "The child is often dirty and unattended... the child was observed unsupervised and drinking beer."

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Detective Karo's half-page report states, "This case does not meet the criteria for a child abuse investigation and will be closed as Department Closure" and "PSW (Protective Services Worker) [REDACTED] believes at this time that the mother and (victim) have moved out of state... PSW [REDACTED] is continuing her investigation"

This case in fact meets the criteria for a child abuse investigation. It is at minimum a misdemeanor child endangerment and likely a felony child endangerment case. Additionally, cases should not be closed because the suspect and victim "may have" moved out of state, nor do we defer criminal investigations to CWS.

Case # [REDACTED]

A crime report regarding a disclosure by a four year old female that she was bitten on the arm by her father. CWS later contacted the victim and her mother on an unknown date. At that time the PSW did not see any marks, however the victim's mother provided two photographs of the bite mark to Detective Karo. Although the photographs are blurry, there is an outline of a bite mark visible. Detective Karo closed this case, stating, "Based on [REDACTED] disclosure to PSW Guild and the lack of any clear evidence of injury, there is insufficient evidence to show that a crime occurred in this case."

At a minimum, the victim should have been forensically interviewed and the suspect interviewed in person. A child abuse investigator of average skill should have been able to obtain a confession from the suspect in this case.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DISCUSSION CONTINUED:

Irreparable damage has already been done to cases worked by [REDACTED] and Detective Karo. Attempting to reform their lack of desire and/or incompetence will only result in more irreparable damage from this point forward. It would be impractical to retain detectives who have clearly shown they have no desire or ability to conduct themselves professionally and compassionately. [REDACTED] and Karo have placed the Department in a position of vulnerability both financially and in repute. Allowing them to remain in the Child Abuse Unit would only place our victims and the Department in an even more precarious position.

It is particularly disturbing that the Child Abuse Unit seems destined to repeat a [REDACTED] situation, no matter how much detectives in the unit attempt to prevent it. As an example, during one of my conversations with [REDACTED], he asked me why I cared if [REDACTED] did her job or not. Previous detectives in this unit attempted to bring [REDACTED] behavior to various supervisors and were also met with indifference, for several years. The Sheriff's Department somehow avoided a serious issue that could have caused significant disrepute and a multitude of major (valid) lawsuits related to [REDACTED] allowing children to be physically and sexually abused while ignoring his cases.

During the [REDACTED] situation, there was no system in place for supervision to track child abuse detectives' investigations. Cases could essentially be thrown in a drawer and never investigated and the supervisor had no reasonable way of knowing. Supervisors in this unit now have comprehensive tracking ability and review and approve every report. This makes them completely accountable for allowing inadequate investigations, essentially making the Department complicit in any situations where children are further abused or harmed due to improper oversight of the investigative process.

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It is important to note that although several serious issues have been brought to light, I am bringing these issues to your attention for purely professional reasons and out of true concern for the child victims we are entrusted to protect. I consider [REDACTED] to be two of the nicest people I could hope to meet. I have also had positive interactions with [REDACTED] the majority of the time and appreciate many of his qualities. However, being a nice or likable person has no bearing on one's ability or desire to function appropriately as a child abuse detective or sergeant. There are many very nice but ineffectual people employed by this Department. These people should not work in a unit that deals with crimes as serious as those routinely handled by the Child Abuse Unit. Being a nice person doesn't accomplish the goal of protecting children and holding their abusers accountable, nor does it protect the Department from disrepute and lawsuits.

CONCLUSION:

One of the concerns among detectives, both inside and outside the Child Abuse Unit, is that when the information regarding [REDACTED], [REDACTED] and Karo is revealed, there will be a spontaneous reaction by the command that will result in "micro managing" of detectives who have performed their duties appropriately.

Some detectives stated they will not go to the command or bring up specific issues, but they will answer truthfully if they are asked specific questions. One particular detective who was routinely very upset and very vocal about these issues was asked to go to the command. He stated he would not be involved because he is a "Coward." Another detective stated she did not want to be involved or have her name used because she still has ten years to work before retirement. Many detectives have expressed concern about being involved because [REDACTED] husband is a commander. Some are concerned about possible ramifications and retaliation by supervision; others because they are simply reluctant to say negative things about peers who may ultimately find out.

Since numerous Sheriff's employees have made it clear they are reluctant to provide facts, it is likely some will either hold back information or minimize information to protect themselves from the perceived threat of retaliation by peers and/or supervisors.

A full investigation/review of all past and present cases assigned to [REDACTED], [REDACTED] and Detective Karo is warranted and necessary based on the circumstances, to ensure that thorough investigations have been conducted in each case. It is imperative that this review be done by competent and compassionate former CAU detectives with significant child abuse experience.

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The following Sheriff's employees have either specific or general knowledge of the issues discussed in this document:

- Rick Castro, CAU Detective
- Donnie Sossaman, CAU Detective
- Karen Bloch, CAU Detective
- Miguel Lopez, CAU Detective
- Laura Shands, SAU Detective
- Dan Pearce, Homicide Detective
- Chris Cross, Sgt. (former CAU Detective)
- Matt Mays, Homicide Detective (former CAU Detective)
- Miguel Baca, SOMU detective (former CAU Detective)
- Heather Czerwinski, Academy (former CAU Detective)
- Chris Davis, Sgt. (former CAU Detective)
- Hank Turner, Lt. (former CAU Sgt.)
- Jimmy Walker, Lt. (former CAU Sgt.)
- James Bovet, Capt. (former CAU Sgt.)

ATTACHMENTS:

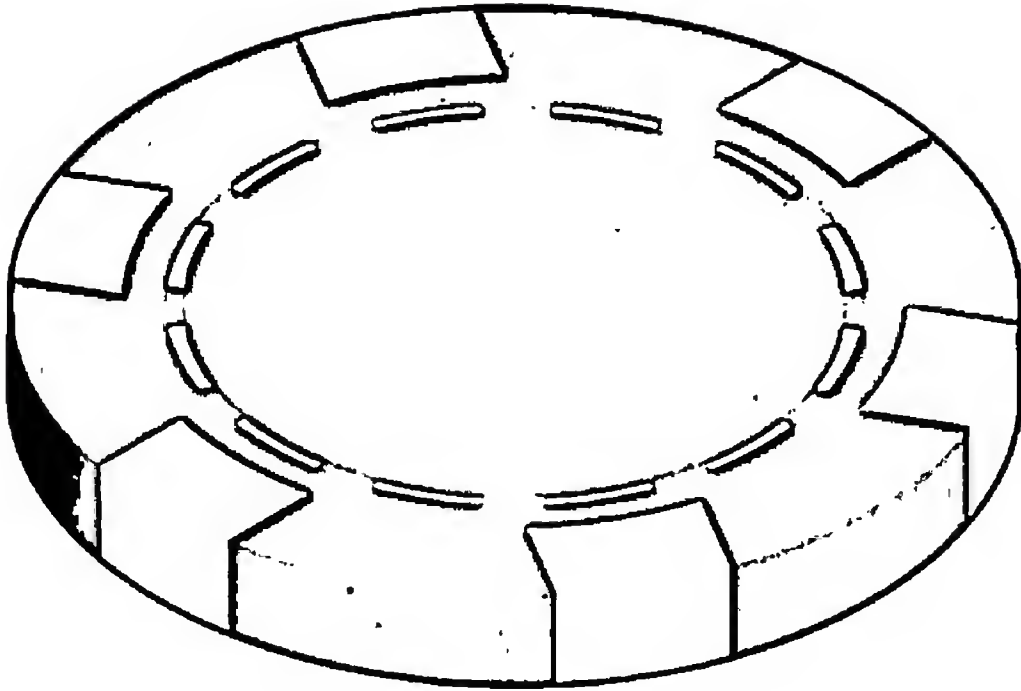
- Nine case reports including attachments
- Detective assignment records for [REDACTED], [REDACTED] Karo, Mays and Cross
- CD containing sign out board photos (33) and graphics photos (2) named with date and time the photo was taken

Respectfully submitted,

[REDACTED]

[REDACTED]

Child Abuse Unit



Reigning Short Stack (It's not a good thing).....



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

June 18, 2014

TO: Jeffrey Duckworth, Lieutenant
Family Protection Detail

FROM: [REDACTED]
Child Abuse Unit

CHILD ABUSE UNIT ISSUES - ADDENDUM

Based on additional information that has come to light, since my original correspondence to you, I would like to make you aware of the following:

As Detective Karo stated, during our meeting yesterday morning, he was aware of the inappropriate conduct by [REDACTED] for quite some time. Detective Karo has been quite vocal about their behavior and lack of investigative skills. He has on occasion brought specific cases of theirs to my attention; knowing that these cases may be brought to the attention of supervision. This is ironic since he himself has engaged in inadequate investigation of his own cases.

In my experience with Detective Karo, I have found that he can be quite charming and likable, yet also displays manipulative and egotistical traits. He makes it a point to endear himself to supervisors and/or anyone he believes he can use to his advantage. This behavior by Detective Karo has been mentioned by other detectives in the child abuse and sexual assault units. Recently, Detective Shands relayed to me that she routinely hears Karo talk negatively about everyone in the office at one time or another.

The following are some examples of Detective Karo's behavior:

On 05-16-14, while working ERAT, I allowed Detective Bloch to leave work early. That night, when Detective Karo arrived for night shift, he said, "She better hope [REDACTED] doesn't find out about it." Detective Karo then claimed Detective Bloch told him she would not return to work the following day unless ordered to do so. Several detectives were present when Karo made this statement (in addition to Detective Ramon Villa and myself, I believe Detectives Helen Williams and Juan Fletes were also present). We advised Karo that Detective Bloch had been adamant that we let her know if she was needed the following morning. Karo continued to claim that Detective Bloch stated she would not return to work unless ordered to do so. Detective Bloch in fact returned to work on time the following morning.

Jeffrey Duckworth, Lieutenant

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On 05-17-14, Detective Aaron Meleen advised me, he and Detective Karo had been friends and worked together for many years, as well as routinely going to lunch together prior to Karo being assigned to the Child Abuse Unit.

When Detective Meleen discovered he was selected for assignment to the Sexual Assault Unit, he invited Karo to lunch. Detective Karo told Meleen he could not go to lunch or associate with him any longer because a division exists between the Sexual Assault and Child Abuse Units. Detective Karo told Meleen that detectives in the two units don't interact with each other. Detective Meleen said Karo has told him more than once that Child Abuse is considered a "Varsity" team and Sexual Assault is only "Junior Varsity." During this conversation, Detective Meleen communicated to me that Karo has always excelled at socializing with supervisors and gaining their favor.

On 06-16-14, Detective Meleen told me he recently attended a child abuse forensic interview with Detective Karo, as a learning experience. Prior to the interview, Karo told Meleen, "I hope we don't get a disclosure." Meleen assumed that Detective Karo hoped that the child had not been victimized. However, Meleen asked Karo why he made that statement. Detective Karo said he didn't want the victim to disclose abuse because that would require further interviews to be conducted on the case. Meleen told me he was shocked at Detective Karo's response since he thought Karo would want to hold a suspect accountable for abusing a child.

Respectfully submitted,

[REDACTED]
Child Abuse Unit



San Diego County Sheriff's Department
Child Abuse Unit
Manual

Child Abuse Unit Manual
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Mission and Goal Statement

The mission of the Child Abuse Unit is to conduct objective and thorough investigations of crimes of child abuse in the communities serviced by the San Diego County Sheriff's Department.

The goal of the Child Abuse Unit is to conduct investigations utilizing problem solving strategies in partnership with the communities we serve to ensure the safety of abused children and the criminal prosecution of those who perpetrate crimes against children.

Section 1 Introduction

1.0 Purpose

The purpose of the Manual is to set forth procedures for the establishment of consistent standards for the Child Abuse Unit. This Manual will provide guidelines for training new child abuse investigators, set required standards for the unit, and be a reference for the newly assigned and the veteran investigator.

1.1 Distribution

The Child Abuse Manual will be distributed to all personnel assigned to the Child Abuse Unit. The manual will be returned upon an employee leaving the unit. It is the assigned employee's responsibility to read and be familiar with the Manual. Each person is responsible for keeping the Manual up to date and in serviceable condition.

The following people shall receive a copy of the Child Abuse Manual:

Assistant Sheriff – Law Enforcement Services

Commander – Law Enforcement Investigations

Captain – Central Investigations Division

Lieutenant – Family Protection Detail

1.2 Revision to the Manual

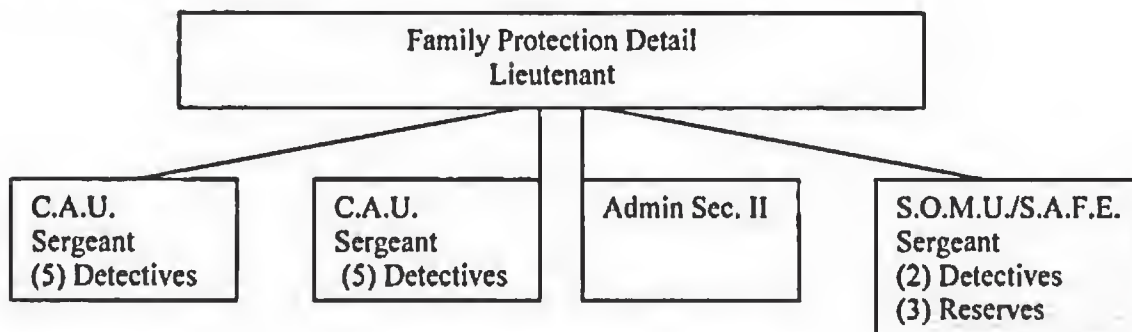
The Family Protection Lieutenant is responsible for maintaining the master copy of the Child Abuse Manual. It is the Family Protection Detail Lieutenant's responsibility to annually review the Manual and make necessary revisions as outlined in San Diego Sheriff's Department Policy and Procedure section 1.2.

1.3 Numbering System of the Child Abuse Manual

The Child Abuse Manual is numerically Indexed to maintain consistency, ease of reference, and to facilitate future changes. The numbering procedure will be the same standard as set in Department Policy and Procedure section 1.3.

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1.4 Organization table.



1.5 Duties and Responsibilities of Child Abuse Personnel

Each member of the Child Abuse Unit is charged with certain duties and responsibilities in the furtherance of the Unit's mission. The duties and responsibilities set forth in this Manual outline the general job descriptions within the Unit and are meant as general guidelines to assist each employee with performing their individual assigned duties.

1.6 Lieutenant, Family Protection Detail

Reports to: Captain, Central Investigations Division
Law Enforcement Services Bureau

Supervises: Sergeants assigned to the Child Abuse Unit, Sex Offender Management Unit, and Sexual Assault Unit and an Administrative Secretary II

Responsibility and Authority: Within the approved limits as set forth by the Policies and Procedures of the Department, the lieutenant of the Family Protection Detail is responsible for the effective and efficient performance of the unit. The lieutenant has the authority to fulfill those duties as set forth below.

Delegation: The lieutenant may delegate to employees under his/her command appropriate portions of his/her duties, together with proportionate authority for their fulfillment, but he/she may not delegate or relinquish the overall responsibility for final results nor relinquish any portion of his/her accountability.

Specific Duties:

- a. Provide supervisory and management oversight over the Family Protection Detail, which includes monitoring the overall direct supervision of the unit.

Ensure that crime reports and follow-up investigations of all reported crimes that are handled within the Family Protection Detail are conducted in accordance of prescribed standards and policies.

- b. Within budget constraints, ensure that the personnel of the Family Protection Detail are properly trained, issued proper equipment, and are provided adequate facilities.
- c. Maintain liaison with other law enforcement agencies, and as required, arrange for exchange of information on cases and related law enforcement problems.
- d. Maintain liaison with the news media and ensure the flow of newsworthy information, without compromising investigations.
- e. Disseminate departmental information, including policies and procedures, special orders and training information to personnel as required.
- f. Facilitate the investigation of major crime scenes by coordinating the work of unit teams and by interfacing between the detail and other commands within the department when required.
- g. As required, conduct reviews of the performance of assigned subordinates and appraise the effectiveness of all personnel supervised.
- h. Review annual budget requests from first line supervisors and assist in the preparation of these requests for submission during the annual budgetary process.
- i. Keep the division captain informed of case progress and of unusual occurrences.
- j. Review and conduct proper investigation of citizen complaints made about Family Protection Detail personnel.
- k. Ensure that assigned equipment and vehicles are properly utilized and maintained.

1.7 Sergeant – Child Abuse Unit

Reports to: Family Protection Detail Lieutenant
Central Investigations Division

Supervises: Detectives assigned to the Child Abuse Unit, Sexual Assault Unit, the Internet Crimes Against Children Unit, and other personnel assigned to any of the aforementioned units or as deemed necessary by the Family Protection Detail Lieutenant.

Responsibility and Authority: Within the approved limits as set forth by the Policies and Procedures of the Department, the Child Abuse Sergeant is responsible for the effective and efficient performance of the unit. The sergeant has the authority to fulfill those duties as set forth below.

Delegation: The sergeant may delegate to employees under his/her supervision appropriate portions of his/her duties, together with proportionate authority for their fulfillment, but he/she may not delegate or relinquish the overall responsibility for the final results nor relinquish any portion of his/her accountability.

Specific Duties:

- a. Review and assign cases for investigation by detectives.
- b. Review the status of each assigned case until final disposition as well as the disposition of property and evidence obtained during the case investigation.
- c. Review and/or approve all cases for final disposition, including associated arrest and crime reports, investigative follow-up reports, and any other reports or forms generated during the case investigation.
- d. Maintain a database of all cases assigned for investigation.

- e. Accompany detectives to crime scenes and/or search and arrest warrant services as needed.
- f. Determine when a case has the potential for media attention, brief the Family Protection Detail lieutenant on the facts of the case, prepare media releases as needed.
- g. Act as a liaison between other Sheriff Commands and allied agencies.
- h. Periodically appraise, rate and counsel detectives regarding their job performance and assigned duties and responsibilities.
- i. Periodically inspect personnel for the proper use and retention of assigned equipment.
- j. Coordinate employee annual vacations, compensatory time off, and coordinate and approve overtime worked.
- k. Be available for call-out as needed.
- l. Identify and obtain appropriate training for employees assigned to the Child Abuse Unit as mandated by law and/or the needs of the unit.

1.8 Detective – Child Abuse Unit

Reports to: Sergeant – Child Abuse Unit

Responsibility and Authority: The Child Abuse Detective has the responsibility for the efficient and effective investigation of all assigned cases. The Detective has the authority to fulfill the duties set forth below:

Specific Duties:

- a. The Child Abuse detective shall investigate each assigned case with the mutual goals of protecting victims from being further victimized and to protect the public from people who perpetrate crimes against children.
- b. Detectives initiate crime and arrest reports, search warrants, arrest warrants, and write in depth follow-up investigative reports.

- c. Due diligence shall be practiced by a detective on each assigned case. A detective will make every effort to interview all parties involved in an investigation. Substantiated cases should be sent to the District Attorney's office for review and issuance. An arrest warrant will be obtained if probable cause exists based on the investigation, even when the suspect has relocated, fled, or is otherwise avoiding law enforcement contact.
- d. Detectives shall work with the District Attorney's office, child protection agencies, contracted medical staff and other allied governmental agencies to facilitate the sharing of pertinent information to assure victim well being, protect others, and to complete assigned investigations.
- e. Child abuse detectives will make presentations to community groups, area commands, schools, and various other entities to educate others and encourage cooperation.
- f. Detectives will keep their supervisor informed of the status of all assigned investigations. Detectives will routinely brief their supervisor of cases involving multiple victims, privileged relationships, serious physical injury or investigations of potential media interest.
- g. A detective will make complete and accurate notes on all phases of an investigation. Complete and comprehensive reports will be made from these notes as outlined in Department Policy and Procedure. (notes can be destroyed if thoroughly documented in a report (People vs. Cole 2005)).
- h. Detectives will write a case status update in the notes section of the NetRMS case file for investigations that are not completed within 60 days. A case status will be required for each 45 day period after the initial case status report for all investigations that remain open. In the notes the detective will indicate why the case is still open, what needs to be done, and when the case should be completed. Case notes will be reviewed by a Child Abuse Sergeant and will be reviewed by the Family Protection Detail Lieutenant.

- i. All property and evidence obtained during an investigation shall be placed into evidence regardless of the final disposition of the case. Detectives are responsible for the final disposition of all property and evidence that pertains to his/her assigned cases. Property and evidence will be handled per Departmental Policy and Procedure at all times.
- j. Child Abuse detectives perform projects, tasks, and duties within Departmental guidelines and timelines established by a supervisor.
- k. Detectives will be proficient in utilizing computer components and databases provided to them for Investigative use.
- l. Child Abuse Detectives are advanced investigators, and as such, are responsible for the contents of the Area Detective Manual.
- m. Detectives assigned to the CAU shall be available for a rotating call-out schedule consisting of a second call followed by a first call assignment. Detectives on first and second call will be available for call-out 24 hours a day for seven days, respectively. It is the detective's responsibility to notify his/her supervisor when unavailable for an assigned call-out period.

1.9 Administrative Secretary II – Child Abuse

Reports to: Family Protection Detail Lieutenant
Central Investigations Division

Responsibility and Authority: The Administrative Secretary II in the Child Abuse Unit is responsible for the efficient and timely completion of all routine secretarial duties as outlined below.

Specific Duties:

- a. Type correspondence, memoranda, reports, and statistical data.
- b. Create and maintain office files.

- c. Monitor the status and expedite the completion of clerical assignments (i.e. data entry, scanning of old files and filing)
- d. Enter all Incoming Child Protection Services referrals into the NetRMS system.
- e. Sort, Screen and route Incoming mail.
- f. Provide general information to office telephone callers and/or refer them to the appropriate party.
- g. Proofread information for conformance with standard typing layouts; identify typographical errors, correct spelling, grammar, punctuation, capitalization and word usage.
- h. Prepare payroll records and all financial reports.
- i. Prepare Departmental Requisitions and maintain office supplies.
- j. Verify and approve payment for billings of Forensic Interviews and exams from Children's and Palomar Hospitals.
- k. Oversee project for archived cases - Scan, validate and destroy cases once case has been scanned and saved onto the network.

Section 2 Administrative Procedures

2.1 Child Abuse Unit Assignment Criteria

The Child Abuse Unit conducts investigations of information obtained from all sources regarding crimes of serious neglect, physical, or sexual abuse of children within the Sheriff's jurisdiction. Child Abuse Detectives initiate criminal investigations from these sources and are assigned follow-up investigations of crime reports for serious neglect, sex crimes and physical abuse incidents against children. Generally, the Child Abuse Unit investigates the following criminal cases (Please reference Departmental P&P 6.17):

- Sexual molestation cases committed against children (13 years of age and under).
- Sexual molestation case of children involving a person who holds a position of trust or a position of authority over the victim (teacher, preacher, camp leader, etc...)
- All felony physical abuse cases involving children 17 years of age and under.

The crime cases the Child Abuse Unit is not responsible to investigate are assigned to the Area Command where the crime occurred or other appropriate investigative unit. These cases are:

- 314.1 P.C. Indecent Exposure
- 243.4 P.C. Sexual Battery – Victim 14 Years or Older
- 261.5 P.C. Unlawful Intercourse with Victim 14 Years or Older
- 647.6(a) P.C. Misdemeanor Molest/Annoying a Victim over 14 Years.
- 288(c)(1) P.C. Lewd and Lascivious Acts with Victim Over 14 Years, unless: The suspect holds a position of trust over the victim (teacher, pastor, etc.), or the suspect resides within the same home as the victim.
- 272 P.C. Contributing to the Delinquency of Minors

- 273a(b) P.C. Misdemeanor Physical Abuse Cases (evaluate the injuries for appropriate charges)

Cases assigned to the Street Narcotic and Gang Detail (SNGD):

- 300 W&I Neglect Cases Involving Drug Endangered Children (DEC).

2.2 Case Assignment Procedure

Child Abuse Sergeants review numerous sources of information of suspected child abuse (social services referrals, crime reports, school referrals, etc.) and determine if the information meets the assignment criteria for the Unit. A case will be assigned to a Child Abuse Detective for investigation when the assignment guidelines are met, when it is more likely than not that a crime has or is occurring, or at the discretion of the sergeant, lieutenant or captain.

All reviewed cases that do not meet the Child Abuse Unit's criteria will be forwarded to a responsible investigative agency. Cases that involve a report of a crime, but do not meet child abuse unit assignment criteria will be forwarded to the area command or agency with jurisdiction for the investigation. Cases that do not rise to the level of a crime will be cross-reported to social services unless already reported. The Child Abuse Sergeant will ensure case information is properly recorded in the Child Abuse Unit database.

2.3 Call-out Procedure

Detectives shall be assigned to a rotating call-out schedule consisting of a second call directly followed by a first call. Detectives will then be off call for a period of weeks depending on the number of detectives assigned to the Child Abuse Unit. Only a supervisor can call out a child abuse detective unless prior approval has been given.

SECOND CALL - The second call detective will receive call-outs from the on-call child abuse sergeant. The detective on second call shall be available for call-out 24 hours a day for seven days. A detective on second call is primarily required to assist the first call detective when necessary. The second call detective may also be called out when the first call detective has already received numerous call-out cases or when there are successive calls.

FIRST CALL - The first call detective will receive call-outs from the on-call child abuse sergeant. The detective on first call shall be available for call-out 24 hours a day for seven days. The first call detective will have the responsibility of responding to call-outs during the assigned period and the responsibility for all investigations resulting from a call-out. The first call detective may call out the second call detective as needed without supervisor approval.

OFF CALL - Detectives not on first or second call shall be considered in an off-call status. Generally, detectives in an off-call status are not responsible for call-outs. However, they are subject to calls for any of their current cases or due to other circumstances as dictated by the Department.

2.4 Emergency Fan-Out Procedures

To establish a procedure in the event of serious civil disorder or a major crisis that would require the availability of all personnel. The Sheriff's Communication Center will contact the Central Investigations Division command. The supervisors will then notify the child abuse detectives as needed.

2.5 Assigned Equipment

To identify the required equipment assigned to detectives upon being assigned to the Child Abuse Unit and to delineate the responsibility for care and maintenance of the equipment.

Detectives have access to numerous items of equipment which are necessary to accomplish their investigative mission. The following items may be assigned to a detective, but other items not on the list may also be assigned.

- a. Remington 12 gauge shotgun(optional)
- b. AR-15 rifle (optional)
- c. Helmets
- d. Digital camera
- e. Analog voice recorder
- f. Digital/Analog transcriber
- g.

Detectives are required to maintain all assigned equipment in a clean, neat, and proper working condition. Assigned equipment must be stored properly and periodically checked to assure proper working order. Detectives should report any loss or damage of assigned equipment to a supervisor. Detectives must submit assigned equipment for inspection when requested by a supervisor.

2.6 Detective Vehicles

Each detective is assigned a vehicle. Detectives will follow Departmental Policy and Procedures at all times when operating their vehicles and maintaining their vehicles. Detectives are to maintain the vehicles in a neat, clean, and proper working condition at all times. All property and necessary investigative equipment will be stored in the vehicle in such a manner as to provide for maximum protection and cleanliness and as per Departmental Policy and Procedure. Evidence shall not be stored in vehicles.

2.7 Filing System

Detective Case Files

The assigned detective will start a case file when assigned a case for investigation. A standard file folder will be used as a container for the assigned case. The folder will have the child abuse case number, sheriff's case number and the name of the victim

written upon the tab. The folder should be organized in such a manner as to provide a reviewer with an orderly presentation of the investigative reports. There should only be one folder per case to avoid duplication. The lead detective will keep the file until the case is closed.

2.8 Training of Child Abuse Detectives

Training of Child Abuse Detectives includes training upon assignment to the Unit and continuing training for veteran detectives. The training will be a combination of orientation, reference materials, on-the-job training and approved courses. A new detective will be scheduled to attend a P.O.S.T. approved sexual assault investigator course within six months of being assigned to the unit. Additional training will be at the discretion of the training sergeant.

2.9 Travel

Child Abuse detectives are encouraged to conduct thorough investigations. To that end, a detective may travel out of the County to conduct interviews of people germane to an investigation. Out of county travel is at the discretion of and must be approved by the Central Investigations Division's Captain. Transportation, lodging, meals and travel related expenses should be planned.

Out of County Travel

- a. Detectives must fill out an Out of County Travel Request.
- b. The completed Request is then forwarded to the Captain via the chain of command.
- c. Financial Services will calculate a budget for the trip based on the information supplied to them from the detective via the Out of County Travel Request. Financial Services will make hotel and flight reservations

and reserve car rental. The detective can utilize their assigned vehicle if the destination is within driving distance.

- d. The detective will contact Financial Services upon return and complete an Investigative Expense Claim detailing the expenses of the trip. The detective should turn in hotel and rental car receipts and any receipts of reimbursable expenses with the Claim form. The Expense Claim form must be approved by a supervisor before being turned into Financial Services.

2.10 Media Relations

Child abuse investigations are confidential. No names of victims will be released to the media without pre-approval of a supervisor. Generally, only public information should be released regarding a suspect, e.g. arrest information and charges. A brief synopsis of a case can be given to the media for cases drawing media inquiry.

Child abuse cases regularly draw media attention due to the nature of crimes against children. The media can be a good resource for an investigator. Careful consideration must be made on any decision to release case information to the media.

The media can be utilized during multiple victim investigations by making public requests for help from the public. This investigative tool will cause considerable feedback from the public. A detective must be available to respond to calls from the public in a timely manner and to respond to any investigative leads that the media inquiry might generate.

Section 3 Child Abuse Law & Definitions

3.1 Child Abuse Defined

PC§ 11165.6.

As used in this article, the term "child abuse or neglect" includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

3.2 Definitions of Report Determinations (Penal Code 11165.12)

As used in this article, the following definitions shall control:

- (a) "Unfounded report" means a report which is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.
- (b) "Substantiated report" means a report which is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred.
- (c) "Inconclusive report" means a report which is determined by the investigator who conducted the investigation not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

3.3 Child Abuse Reporting Laws

Reporting Laws: An employee of the Sheriff's Department is a mandated reporter by law (11165.7 PC). The Penal Code provides that it is a crime for certain professionals and lay persons who have a special working relationship or contact with children not to report suspected abuse to the proper authorities. An employee of the Child Abuse Unit will report suspected child abuse when required to by law.

3.4 11166 P.C. Report; duty; time

Any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

3.5 11169 P.C. Child Abuse Central Index

After January 1, 2012, law enforcement agencies are no longer required to submit reports containing the names of known or suspect child abusers to the Child Abuse Central Index (CACI). Any person listed on the CACI has the right to a hearing before the agency that submitted their name to the CACI in order to challenge their listing. If it is determined the person's CACI listing was based on a non-substantiated report, the agency shall notify the Department of Justice and the department shall remove that person's name from the CACI.

3.6 11172 P.C. Immunity from liability; failure to report; offense

Failure to report a child abuse by telephone and in writing within 36 hours is a misdemeanor punishable by six months in jail or \$1,000 fine, or both. Persons required to report are not liable either in civil damage suits or for criminal prosecution as a result of making a report. Other persons are not liable either in civil damage suits or for criminal prosecution as a result of making a report. Other persons are not liable civilly or criminally, unless it can be proven a false report was made and that person knew the report was false.

3.7 Types of Child Abuse

The Child Abuse Detective investigates cases of serious neglect, sex crimes or physical abuse against children. Child abuse generally refers to non-accidental infliction of any injury upon a child by another person. However, it includes not only physical abuse, but also physical neglect, sexual abuse and infliction of unjustifiable mental suffering or emotional abuse.

3.8 Sexual Abuse

Sexual abuse is a frequent occurrence in our society. Sexual abuse of children within the family is often the most hidden form of child abuse. A person with no prior history of sexual problems can be tempted to sexually abuse a child within the intimacy of family life, especially at times of stress or when adult relationships are nonfunctional.

The initial sexual abuse may occur at any age, from infancy through adolescence. However, the largest numbers of reported cases involve females under the age of 11 years. The sexual activity is usually repetitive and progressive. There is no escape for the victims until they are of an age or emotional strength to seek help.

The victim's mother, who normally would be expected to protect the child, may purposely isolate herself from the problem of sexual abuse. Sometimes she is distant and uncommunicative, or so disapproving of sexual matters that the child may be afraid to come forward. Sometimes, she is insecure and the potential loss of her husband or partner, loss of family income, and the fear of scandal. She cannot allow herself to believe or even suspect her child is or could be at risk. The mother herself may have been a victim of abuse and may not trust her judgment or right to challenge the male authority figure. Some mothers actually have knowledge of the abuse, but choose to ignore it.

Sexual abuse might be suspected if:

1. The child reports sexual activity with parents, relatives, friends, or other adults.
2. The child shows an early, exaggerated awareness of sex, or fearful avoidance of close contact with others.
3. Physical evidence of sexual abuse is present, such as bruising or inflammation of the mouth, anus, or genitals, or the presence of semen in these areas.
4. Venereal disease is diagnosed.
5. A female is pregnant at a very youthful age and/or appears unusually fearful or secretive.
6. A child with behavioral problems alludes to conflicts at home, but seems hesitant or fearful about revealing the problem.
7. Siblings have reported abuse or been discovered victims of abuse.

Ordinarily, violations of 288(a) P.C. or 647.6 P.C. are charged. However, other sexual assault crimes are specifically included in the statutory definition of child abuse. These include Incest, sodomy, oral copulation, and penetration of a genital or anal opening by a foreign object.

3.9 Physical Abuse

Inflicted physical injury most often represents unreasonably severe corporal punishment. This usually occurs when the parent is frustrated or angry and shakes, throws, or strikes the child. Other forms of punishment may also place a child in a situation where injury is inflicted or the child's health or person is endangered. Intentional assaults such as burning, biting, pummeling, cutting, poking, twisting limbs, or otherwise torturing a child, are also forms of physical abuse.

The following types of injuries indicate suspected physical abuse:

A. Burns

- Burns without evidence of withdrawal.
- Burns indicating force contact or "branding."
- Burns as a result of immersion in hot liquid.
- Rope burns, especially around neck, wrist, and ankles or on the back.

B. Bruises

- Multiple bruises.
- Bruising to a child less than 12 months.
- Bruises found on multiple body surfaces.
- Bruises to the face, especially both sides.

C. Bite Marks.

D. Abrasions, Lacerations, and Scars.

E. Whipping.

F. Head and Neck Injuries.

G. Pummeling (Can cause serious internal injury).

H. Fractures.

Physical abuse is most commonly charged as a violation of 273a(a) P.C., willful cruelty and unjustifiable punishment, or 273d P.C., infliction of corporal punishment.

3.9 Neglect

Physical neglect is the failure of a parent or caretaker to provide a child with adequate food, shelter, clothing, protection, supervision, and/or medical care or dental care.

Physical neglect is suspected if the following conditions exist:

- Unsanitary and/or unsafe conditions in the home.
- Lack of heating or plumbing in the home.
- Sleeping arrangements are cold, dirty, inadequate or overcrowded.
- Nutritional quality of food is poor or nonexistent.
- Meals are not prepared.
- Spoiled food in refrigerator and/or storage areas.
- Child lacking in medical or dental care.
- Child habitually dirty, sleepy, or hungry.

3.10 Laws of Child Abuse

Sexual Molest

285 P.C. Incest

Incest is a marriage or act of intercourse between the following persons: parents and children, ancestors and descendants of every degree; brothers and sisters of half and whole blood and uncles and nieces or aunts or nephews.

286 P.C. Sodomy

Sodomy is sexual contact between the penis of one person and the anus of another person.

288(a) P.C. Lewd acts with a child under 14 years

Lewd and lascivious acts with a child is any touching of a child under the age of 14 years by either the perpetrator or by the child at the direction of the perpetrator for the purpose of arousing, appealing to, or gratifying the lust or passions or sexual desires of the perpetrator or the child.

288(c) (1) P.C. Lewd acts with a child of 14 -15 years

Lewd and lascivious acts with a child is any touching of a child 14 or 15 years of age by either the perpetrator or by the child at the direction of the perpetrator for the purpose of arousing, appealing to, or gratifying the lust or passions or sexual desires of the perpetrator or the child when the perpetrator is at least 10 years older than the child.

288a P.C. Oral Copulation

Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

288.5 P.C. Continual sexual abuse of a child

Any person who either resides in the same home with the minor child or has recurring access to the child, who over a period of time, not less than three months, engages in three or more acts of substantial sexual conduct with a child under 14 years.

289 P.C. Penetration of a Genital or Anal Opening by a foreign object

The slightest penetration of a genital or anal opening of the perpetrator or other person using any foreign object, substance, instrument, or device, or by any unknown object, including any part of the body except a sexual organ, for the purpose of sexual arousal, gratification, or abuse.

647.6 P.C. Annoying/molesting children

Any act that annoys or molests a child under the age of 18 and is motivated by an unnatural or abnormal sexual interest in children, which act would reasonably be expected to disturb, irritate, trouble or offend the victim, whether or not the victim is so affected. No touching of the victim necessary.

243.4 P.C. Sexual Battery

Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person that was touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. "Touches," means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense. (Complete section in the Penal Code)

Physical Abuse and Neglect

273a(a) P.C. Willful cruelty

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such a situation that its person or health is endangered.

273a(b) P.C. Willful cruelty

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered.

273d P.C. Inflicting corporal punishment

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

Protective Custody

Protection of a child victim is the first responsibility of the investigator. The Welfare and Institutions Code provides a wide degree of latitude in protecting the child. Section 305 W & I provides for the taking of a minor into custody under circumstances explained in sections 300(a) W & I through 300(d) W & I. Peace officers have the authority to remove a child from his home and transport him to Children's Hospital and/or Polinsky Children's Center if abuse is suspected, based upon this section as follows:

305 W & I Conditions allowing temporary custody without a warrant

This section allows the investigator to take a child under the age of 18 years into temporary protective custody without a warrant if the welfare of the child is in jeopardy. (Review the section for the complete conditions)

300 W & I Children subject to jurisdiction

Any minor whose home is an unfit place for a child by reason of neglect, cruelty, depravity, or physical abuse of either his parents, or of his guardian or other person in whose custody or care he is.

Section 4 Child Abuse Investigative Procedures

4.1 Investigative Guidelines

Child abuse detectives have primary responsibility to conduct follow-up investigations on reports of suspected child abuse. Child abuse detectives also initiate crime cases and subsequent follow-up investigations when necessary. A follow-up investigation begins when the preliminary investigation has been concluded and a detective has been assigned a case for investigation.

The Area Detective Manual sets forth basic investigative procedures for all detectives of the Sheriff's Department. Child abuse detectives will follow Departmental Policy and Procedures and follow the procedures of the Area Detective Manual while conducting investigations. The San Diego County "Child Victim-Witness Protocol" will also serve as a reference for detectives while investigating child abuse case (see Appendix A).

Child abuse reports and the information contained within these reports are confidential by law. All employees assigned to the Child Abuse Unit must be cognizant of the confidentiality requirements and only disclose case information to those agencies mandated by law to receive such information and others on a right to know - need to know basis.

The detective will investigate each case and determine whether the case is substantiated, inconclusive, or unfounded for the allegations of suspected child abuse. Follow-up reports will be completed on each assigned case regardless of the final disposition. No final disposition shall be made without a complete investigation.

Detectives must first determine if there is any protection issue regarding the victim of child abuse. The safety of the victim is the first priority of child abuse investigations.

The child should be taken into protective custody (300 W&I) if the child is in danger of continued abuse.

Detectives will make contact with victims and witnesses of assigned follow-up investigations within a timely manner when assigned a case for follow-up investigation. As soon as possible, but generally no later than 60 days from assignment, the following reports, forms and procedures should be completed as necessary for the investigation:

- A.
 - 1. Forensic Interview
 - 2. Forensic medical exam
 - 3. Crime scene processed
 - 4. Victim, witness, and suspect interviews
 - 5. Crime and/or Arrest report
 - 6. Investigative follow-up
 - 7. Arrest Warrant and/or Search Warrant
 - 8. Evidence form
 - 9. Any other forms as required per Departmental Policy and Procedure or a supervisor
- B. All necessary and pertinent investigative reports should be updated as necessary, but generally should be updated every 45 days or sooner. In the NetRMS case notes an update should be provided at least every 45 days.
- C. A priority will be placed on completing investigations per statutory or other legal requirements when a suspect is in custody and/or when a case meets the criteria of 803g PC.
- D. An arrest will be made or an Arrest Warrant sought for suspected child abusers when an investigation has substantiated that a particular person committed a crime against a child. This procedure should be followed if probable cause exists

for the suspect even if the suspect has absconded or is otherwise avoiding contact by law enforcement.

- E. Detectives will verify that an SS-8572 form was cross-reported on each case assigned to them. The detective will make the cross report when a case was found to have not been previously cross reported and must be cross reported by law.
- F. Detectives will determine a disposition at the conclusion of their investigation. The following dispositions will be used:
 - 1. Suspended: Suspended is used when the investigator has exhausted all leads and can no longer proceed with the investigation. It can also be used to temporarily remove a case from their workload while awaiting the results of evidence testing which can take several months. Examples of delayed evidentiary comparison might be DNA, IBIS, computer forensics, latent prints, etc. Forensic Interview Forensic Interview.
 - 2. Arrest: If the case folder contains an Arrest/JCR Report, regardless if there are any outstanding suspects, the case folder must be closed as Arrest. If a case contains an arrestee and you request an arrest warrant on an outstanding subject(s), the case must be closed as Arrest. If a subject is arrested and subsequently released pursuant to penal codes section 849(b)(1), the folder must be closed as Arrest. Once a case folder contains any report with a title of Arrest/JCR, the case must *a/ways* be closed as Arrest. You cannot close a case as Arrest just because the subject was arrested on another unrelated case. If the case folder does not contain an Arrest/JCR Report then you cannot close the case as Arrest.
 - 3. Submitted DA: Closing a case as Submitted DA means you have a case where no one has been arrested on this case, you have a known suspect, and you submitted the case for DA review, and/or you request an arrest warrant be issued on the subject. In essence, you are awaiting a decision on

whether the DA wishes to proceed with prosecution. Inevitably this case will be changed to Arrest, DA Reject, or Exception based on the DA's decision. If a person has already been arrested and the DA chooses not to proceed with a criminal prosecution against that arrestee, for whatever reason, that case must still be closed by Arrest. Once an arrest is made on the case, the case must always be closed as Arrest.

4. No Pros: No prosecution refers to cases where the victim refuses to participate in the prosecution by testifying in court against a subject who has yet to be identified, or a known suspect who we have yet to arrest because we do not know where he/she is. In cases where the victim knows the identity of the suspect, the investigation developed probable cause for an arrest, you know the location of the suspect, and the victim refuses to cooperate, then this case cannot be closed as No Prosecution. In this scenario, this case must be closed as Exception.
5. Unfounded: Unfounded cases mean a criminal incident was reported and the investigation proved there was no criminal law violation. In most cases, unfounded criminal incidents are identified after the preliminary investigation by the patrol officer. A case report should be generated even if the initial investigation proves to be unfounded as mandated by DOJ.
6. Exception: Exceptional clearances mean you have solved the case and have positively identified a suspect, but for reasons outside of your control, you cannot arrest that person. In order to close a case by exception, the last report in the case folder must contain a Crime/Incident Report or a Follow-Up Report, and the case disposition field must contain the selection of Exception.

In order to have an exceptional clearance you must be able to answer all four-questions in the affirmative.

1. Has the investigation definitely established the identity of the offender?

2. Is there enough information to support an arrest, charge, and turning over to the court for prosecution?
3. Is the exact location of the offender known so that the subject could be taken into custody *now*?
4. Is there some reason outside law enforcement control that precludes arresting, charging, and prosecuting the offender?

DA rejects are one example of an exceptional clearance. If a person is arrested and the DA declines prosecution that would not qualify as an exceptional clearance since the person was already arrested. Once an arrest is made on the case, the case must always be closed as Arrest. An exceptional clearance based upon a DA reject is for individuals who have not yet been arrested on this case.

5. Dept. Closure: Department Closure is to be used on non-criminal incidents. Examples are unsubstantiated child abuse incidents (not criminal offenses), death investigations, suicides/attempted suicides, found/lost property, miscellaneous incident reports, traffic accidents, or cases referred to another agency.

- G. The case will be submitted to the detective's supervisor for approval and closure. The case will be approved for closure only when all the investigative criteria outlined in this section are met.

4.2 Case Interviews

Child abuse reports often contain minimal information from which to surmise crime potential. It is necessary for child abuse detectives to conduct interviews to establish whether a crime was committed.

Interviews will be conducted of people with knowledge of the reported incident or crime. Interviews will follow Departmental Policies and Procedures. The San Diego County Child Abuse Protocol should be considered when interviewing child abuse victims and their families. Generally, all interviews should be recorded utilizing equipment to record audio or video, or both.

4.3 Victim Interviews

Victims of child abuse are interviewed to establish an account of the incident and to establish the elements of a crime. The victim interview establishes if a crime has been committed, and subsequently, can help to establish the direction of an investigation.

In most cases, a young victim will need to be interviewed in a controlled environment. The Sheriff's Department contracts with Children's Hospital and Palomar Hospital to conduct forensic interviews. The hospital where a victim is to be interviewed depends on where the victim's family resides and the availability of services at either hospital on any given day. The interview is authorized by a child abuse detective.

Generally, young children under age of 12 should have forensic interviews completed whenever possible. Children can be interviewed by detectives, however; the detective should evaluate the maturity of the individual and their own interviewing skills before determining whether to conduct an interview of a child victim. Every effort must be made to limit the number of times a victim has to retell their story of abuse. For this reason, county protocols suggest that the assigned social worker and district attorney observe the victim interview when possible.

A forensic interview should be scheduled at the participating hospital once a victim interview is determined to be necessary. The interview is conducted by a social worker employed by the hospital and who specializes as a forensic interview specialist. The hospital will need to know of any special concerns for the victim, like language issues or special needs due to mental or physical deficiencies of the victim.

The detective should brief the assigned interviewer of the facts of the case before the scheduled interview. Parents or other family members may not be a part of the interview or directly observe the interview. The family members can be given a verbal account of the interview after it is completed.

The detective observes the interview from an adjoining room. Other agency representatives observe the interview with the detective. The detective utilizes equipment provided by the hospital to videotape the interview. The videotape is evidence and will be handled as such by the detective. Besides providing a detailed record of the interview, the videotaped interview will likely be reviewed by the District Attorney's office to ascertain the validity and credibility of the victim. The forensic interview specialist will complete a report of the interview. The report is included in the criminal investigation.

Emergency forensic interviews can be conducted at either Palomar or Children's hospitals. The emotional and physical well being of the victim should be considered before authorizing any forensic interview. Generally, an emergency forensic interview is done due to an unavoidable field arrest or other exigent circumstance. A detective must follow the emergency or after-hours procedures for the individual hospital to schedule an emergency interview even during normal business hours.

4.4 Witness Interviews

Witness interviews can corroborate other accounts of an alleged crime. Any witness to a crime must be interviewed and their account recorded in the investigation. Some witnesses will need to be re-interviewed based on the needs of the investigation as more details come to the attention of the detective. Children Services social workers are often witnesses to a child abuse incident and will have written reports documenting their interviews with the victims, witnesses and suspect.

4.5 Suspect Interviews

The suspect interview should be conducted after the victim and witness interviews are complete and when the detective is prepared to confront the suspect about the crime. The interview will be recorded, utilizing audio and/or video recording equipment. The interview should be done in a controlled setting, like the Central Investigations Division's interview rooms, or in another location free from distractions. Detectives should avoid any interview setting that gives the suspect control over the interview.

A detective who knows and understands all the facts of the crime will be more likely to conduct a thorough interview of the suspect. The background of the suspect should be reviewed before the interview. Retrieving reports and/or results from the crime laboratory on any processed physical evidence involved in the case will also help prepare the detective for the interview.

The purpose of the suspect interview is to:

- Obtain a confession to the crime
- Obtain incriminating statements
- Establish the suspect's account of the crime or incident
- Determine if there are other crimes committed by the suspect
- Ascertain if there are other victims
- Develop information of additional evidence of the crime

4.6 Evidence Collection

S.A.R.T. examinations of child victims

Medical examinations of child victims are conducted at Palomar and Children's Hospitals. Generally, the closest hospital to the victim's residence would dictate which hospital to use for the exam. The examination is authorized by a child abuse detective. The

emotional and physical well being of the victim should be taken into account before authorizing an exam. However, the detective must consider the time that serological evidence is viable if a decision is made to wait for the medical exam.

The exam is performed to collect physical evidence of a crime. The attending physician will complete a medical report detailing the findings and give a medical opinion of the observed injuries. The report is included in the criminal investigation. The samples collected from the exam and any other items obtained at the time of the exam are evidence and will be handled per Department Policies and Procedures.

4.7 Physical Evidence

Collecting physical evidence is a priority for any investigation. Physical evidence can corroborate the accounts of a child abuse incident as told by witnesses, victims, and suspects. Any physical evidence obtained at crime scenes or evidence collected during the investigation will be handled per Departmental Policies and Procedures. A Field Evidence Technician (FET) can be requested if there is a large amount of evidence to collect at a crime scene, the circumstances of collecting the evidence requires a specialist, or the detective believes a FET should be utilized based on the totality of the investigation.

4.8 Photographs

Photographs are most often taken by the reporting deputy during the preliminary stage of the investigation. Film or digital media containing photographs are evidence and will be handled per Department Policies and Procedures.

4.9 Additional Evidence

Any other evidence will be seized per Departmental Policies and Procedures.

4.10 References and Forms

The Child Abuse Unit maintains an Intranet site that contains professional references related to child abuse that detectives should utilize as a knowledge base. Additional informational material can be found in the Child Abuse Unit's network folder. All forms utilized by the Unit can also be found in the network folder.

Appendix A

San Diego County Child Victim-Witness Protocol

1. Policy Statement

1.1 Our Mission

The County of San Diego and all of the incorporated cities located within will assist and protect all children, both victims and witnesses, who are exposed to any kind of abuse through a multi-disciplinary collaborative effort by those in law enforcement, child protection, mental and medical health, and the justice system.

1.2 Goals

- Minimize further trauma to child victims/witnesses through a cooperative multidisciplinary effort, which will limit the number of times children are interviewed and treat children with dignity and respect.
- Increase the effectiveness of the investigative and protective process.
- Prevent abuse to other children.
- Facilitate the child's access to needed services such as medical treatment and trauma counseling.

2. Community Partners

The following community partners must work together to fulfill the goals of this protocol: schools, Health and Human Services Agency: Child Welfare Services (CWS), law enforcement, District Attorney, City Attorney, County Counsel, medical, hospital based Children's Advocacy Centers, Kids In Court, and trauma mental health treatment community.

3. Initial Contacts

Good investigation includes a joint response and a single interview conducted by law enforcement and CWS whenever practical. Together they determine an interview strategy and direction. While both parties need to know the circumstances of the abuse, Protective Service Workers (PSW) need additional information to determine the proper placement for the child's safety.

3.1 Law Enforcement

The majority of initial law enforcement contacts with victims of child abuse are made by patrol officers. Agency specific departmental policies and procedures dictate how different types of investigations are conducted. The execution of this protocol is not intended to supersede these policies; however, each law enforcement agency shall make every effort to follow this protocol.

- **Mandated Reporting and Cross Reporting Requirements**

The State of California has mandated reporting requirements for child abuse cases in California Penal Code sections 11164 through 11174.3. If law enforcement receives the child abuse report first, they **MUST** cross report to the Child Abuse Hotline. A report must be made by phone, immediately or as soon as practically possible, when child abuse is suspected. A fax report is allowed (8:00 a.m. to 5 p.m. Monday – Friday) after making reasonable efforts to submit an initial report by telephone. **AND** a written follow-up report must be made within 36 hours using form SS-8572 or a department's equivalent.

<p>Lack of staff and large case volume should not prevent a multi-disciplinary initial response.</p>

If the law enforcement agency received the report of child abuse from CWS, then the officer does not need to fill out State Form SS-8572, nor cross report the allegation to CWS.

- **Obtaining Information**

A PSW, parent, or teacher may have already obtained some of the required information from the child. If the officer can determine that a crime has occurred by speaking to others, then he or she should do so and avoid the necessity for a field interview of the child. This information should be obtained and documented.

- **Follow-up by Detectives and/or Protective Service Workers**

If the case will be investigated by a detective, much of the required information should be obtained without re-interviewing the child. Basics such as names, addresses, and phone numbers are needed; but only three other facts are necessary for the report. These are:

- Jurisdiction
- Statute of limitations
- The basic elements of the crime

The child will be asked for details at a later time by a PSW, a detective, or during a forensic interview.

- **Evaluating Protective Issues**

The officer, either alone or with a PSW, must also determine whether or not there is a protective issue for the victim and other children in the home. If leaving the children in their current situation would put them at risk, the officer **MUST** take them into protective custody per Welfare and Institutions Code section 300.

Children taken into protective custody should be taken to:

- **Polinsky Children's Center**
- **Other designated receiving homes**

- **Released to a Protective Service Worker**

- **Evidence, Documentation, Instrumentalities of the Abuse**

It is important for the officer to be aware that evidence of the abuse may exist. In physical abuse or neglect cases handled by the patrol officer, immediate documentation of visible injuries or conditions including crime scenes (e.g., photographs, detailed descriptions) and collection of instrumentalities of the crime (e.g., belts, spoons, lubricating jelly, etc.) are necessary. Physical evidence from a sexual abuse victim will be collected by medical personnel only. See Sections 6.1 and 6.2 for guidelines regarding medical evaluations for physical and sexual abuse. Lawfully seized evidence is extremely important and can be used to corroborate the victims/witness' statements.

3.2 HHSA: Child Welfare Services

PSWs make several assessments and decisions during the initial response to a child abuse referral. These decisions balance the protection of the child against the preservation of the family. Critical to the decision making process is the assessment of existing or potential future harm to the victim and siblings.

All attempts should be made to coordinate the first response interview with law enforcement in cases of physical abuse, sexual molest, and severe medical neglect.

- **Information to Determine Intervention or Services Needed**

The PSW must decide what, if any, medical attention, and/or intervention or services would provide safety to the child(ren) and minimize the need for removal. The PSW will need to have certain information in order to make this decision. However, the PSW need not be the one to obtain the information. In a joint interview, some of the information may be obtained by law enforcement while the PSW obtains other information. Where it appears that the children may be going to a hospital, some of the information may be obtained by hospital personnel.

- **Determining the Level of Risk Present and the Degree/Method of Intervention**

Specific information is needed to determine the level of risk present. Who obtains it, and from whom, can be decided in a collaborative effort. Then, the degree and method of intervention must be determined.

The PSW should interview the other children and ascertain the non-perpetrating caretaker's willingness and capability of protecting the child from future harm.

The decision to remove a child from his/her own home should be based on future risk to the child. This decision should not be influenced by the temporary incarceration of the offender. Incarceration or the existence of a restraining order, in and of itself, does not guarantee child protection.

- **Additional Responsibilities of Protective Service Workers**

When another PSW is assigned to the case following the initial intervention, this worker should obtain and review all written narratives, view the recordings of the forensic interview, and/or review results of the medical examination and the hospital social work report prior to re-interviewing the child(ren).

4. Investigations

4.1 Minimizing Multi-Discipline Conflicts

- **Procedural Conflicts**

The chief concern of both the law enforcement detective and PSW should be the welfare of the child(ren). However, each discipline's investigative focus has its own set of time constraints and legal requirements.

Procedural conflicts can result, impacting not only the investigation, but also the emotional well-being of the child(ren). Upon receiving a case for investigation, both the PSW and the detective share the responsibility to contact each other to determine their involvement. Timely communication will generally resolve most conflicts.

If a protective issue exists, the involvement of CWS should be confirmed and the extent of its involvement determined. The detective and the PSW should discuss the case, particularly areas where their respective investigations are likely to overlap. If the PSW must contact the suspect before the detective does so, the PSW should not disclose any information regarding evidence (e.g., videos, magazines, photographs, weapons, or other instrumentalities of the crime).

To avoid duplicating investigative efforts, the PSW should provide the detective with copies of notes and reports that might be valuable to the investigation. The detective should reciprocate in the sharing of information. A court order is not necessary if there is an active investigation.

- **Forensic Interviews**

If a recorded forensic interview is warranted, it should be coordinated so that both the detective and the PSW can observe it. The supervisor of the appropriate prosecuting agency should be notified of the interview time and location, so that an assigned prosecutor may attend.

4.2 HHSA: Child Welfare Services

A child abuse investigation by a PSW is initiated by a report to the Child Abuse Hotline, or as a result of a child being taken into protective custody by law enforcement. This report may be cross-reported to law enforcement, community care licensing, and the District or City Attorney's Offices depending on the circumstances.

The Hotline makes a safety assessment which determines the response priority of a referral. A referral will be assigned a response priority of:

- 2 hours – 10 days
- Evaluate Out (EO) (not assigned)

The assigned PSW is responsible for conducting an investigation and making a decision about what level of intervention is required. Child abuse investigation results may include the following outcomes:

- ***Close with no services***
- ***Close with referrals to community resources***
- ***Open with no custody and provide voluntary services through CWS***
- ***File a petition with the juvenile court to seek protection of the child with or without removal from the home***

If it is determined that a child must be removed from his/her home due to safety concerns, the PSW will take the child into protective custody. Often the PSW will request the assistance of law enforcement to preserve the peace and assure children are safely removed. The PSW will consider all available detention options including relatives, non-family relative

homes, licensed foster homes, licensed group homes, Polinsky Children's Center or other county shelter care facilities.

Once a child has been taken into custody, the law requires that a petition be filed or the child be released from custody within 48 judicial hours. A detention hearing must be held on the next judicial day following the filing of a petition.

5. Forensic Interview Process

A forensic interview is a component of either an initial response or a follow-up investigation by law enforcement or CWS.

No consent or court order is necessary for a forensic interview.

5.1 Goals of the Forensic Interview Process

- Facilitate the fact-finding process for relevant agencies.
- Reduce the trauma to the child victim by minimizing the number of interviews and interviewers.
- Provide a safe, supportive environment in which children can share information about their experience.
- If a disclosure is made, to obtain as much information as possible in a manner that is legally and developmentally sensitive and conforms to evidence based interviewing techniques.
- Provide recorded documentation and summary reports to authorized agencies.
- Provide crisis intervention services and mental health assessment to victim and family.
- Provide for ongoing treatment and community based referrals as indicated by the assessment.

5.2 Who Is present

- Child and interviewer in the interview room
 - Law enforcement, child protection and/or prosecutor in observation room
 - Approved trainees in observation role only
 - The parent(s) and other attorneys are never allowed to remain in the room
- or observe the interview.
- The alleged perpetrator should never be at the interview facility

5.3 Who Needs Forensic Interviews

At the discretion of the requesting agency, children up to age 13 or adolescents between the ages of 14 and 17 that meet the following criteria can be interviewed:

- The child has the capacity to describe what his or her experience has been
- And
- The child has made some type of disclosure (as a victim or witness)

Or

- There is evidence that abuse has occurred (credible witness, medical, pornography, other) but the child has not disclosed

Or

- The forensic interviewer can gain more accurate or complete information from the child due to age, developmental level, speech or hearing problems, language barriers, or the child's fear and anxiety when initially interviewed.

5.4 Documenting the Forensic Interview

After the forensic interview, the interviewer will provide a copy of the recording and written report to authorized agencies. The written report

will normally be completed within 15 working days unless otherwise requested by the referring agency.

6. Medical Intervention

CWS or the law enforcement jurisdiction in which the incident is alleged to have occurred can request a medical examination. Pursuant to Penal Code §13823.95, law enforcement will pay for the examination when it is performed for the purposes of gathering evidence for possible prosecution. If it is unclear where the incident occurred and evidence must be collected urgently, the law enforcement jurisdiction where the victim makes the report will be responsible for payment. The State of California, through the Office of Criminal Justice Planning (OCJP), has developed a protocol for conducting medical examinations of sexual assault, child sexual abuse and child physical abuse.

THE CONSENT of a parent must be obtained prior to a forensic medical examination UNLESS the minor is at least 12 years old and consents, OR there is a need to preserve evidence, OR there is a medical emergency, OR there is a court order with proper notice.

6.1 Sexual Abuse

A. An Examination should be requested if:

- An injury is suspected.
- It is likely forensic evidence will be recovered.
- If there is a history of recent sexual contact.

B. Timing of forensic examinations for sexual assault victims

- The need for the acute examination should be based on the child's history, symptoms and post-assault behavior and not solely on time from assault.
- Evidence may be collected after the traditional 72-hour window.
- Medical providers (e.g., Children's and Palomar Hospitals) should be consulted to determine urgency and timing of the examination.

- Acute or urgent examinations:
 - It is imperative that children not wash, bathe, or change clothes once the decision to perform the examination has been made in order to avoid eliminating evidence.
 - If a child needs to urinate, it is important to save the urine.
 - If reasonable, eating and drinking should be avoided until after the collection of specimens from the mouth.
- When a child presents weeks or more after the assault, it is likely that injuries will be healed and there will be no trace evidence. One may still find healed hymen tears, STDs, and pregnancy. If a child presents within two weeks of an assault, injuries may sometimes be seen that have not yet completely healed.
 - In adolescent victims, sperm may sometimes be found up to two weeks in cervical mucus. In order to preserve any residual evidence that may still remain a medical evidentiary examination should be conducted.

C. Location of examinations

- Children's Hospital
- Palomar Hospital.
- Polinsky Children's Center:
 - Children taken into protective custody will receive a thorough physical exam. They may undergo a non-magnified, non-colposcopic genital exam. This in no way suffices for a forensic examination. Any child entering into Polinsky who discloses molest should be referred for a colposcopic evaluation by a qualified medical provider at either Children's Hospital or Palomar Hospital.

6.2 Physical Abuse

A. An examination should be requested if

- A child is injured and little or no history is available to explain the injury.
- The injury is not consistent with the history.

- Multiple injuries and/or head trauma is suspected or present.
- Evaluation by a medical expert is necessary to:
 - Document inflicted trauma
 - Offer an opinion as to whether the described mechanism of injury is consistent with the findings
 - Confirm long-term/chronic abuse or neglect if future legal proceedings are anticipated.

B. Timing of forensic examinations for physical abuse victims

- If there is no immediate medical danger to the child and the nature of the abuse requires a medical evaluation the child should be taken to a facility with qualified medical providers.
- If the seriousness of the injuries necessitates immediate medical care call 911 or transport the child to the nearest emergency department.

C. Those who may conduct medical examinations

- The medical examination must be performed by a physician or nurse practitioner working with a qualified physician who:
 - Has expertise in the medical conditions caused by physical abuse or those mimicking physical abuse
 - Is willing to provide a statement for evidence
 - Is able to testify in court as an expert witness
 - Some types of injury are highly predictive of future risk, and experienced physicians can provide investigators with information that may be useful when making placement decisions.

7. Legal Intervention

District Attorney

All felony child abuse cases involving victims currently under the age of 14 are prosecutable through the District Attorney's Family Protection Division. Misdemeanor child abuse cases occurring outside the City of San Diego are vertically prosecuted by the Family Protection Division's branch units. Felony

sexual abuse cases involving victims presently 14 years old or older are referred to the Sex Crimes and Stalking Division-San Diego or to the branch offices, while juvenile perpetrator abuse cases are handled by the Juvenile Division. In both felony and misdemeanor cases, the prosecutors must strive to minimize further trauma to the child victim / witness while promoting public safety. Specialized training is a key ingredient to that end.

County Counsel

County Counsel represents CWS in all juvenile dependency matters beginning with the filing of the petition to bring the case before the court pursuant to Section 300 of the Welfare and Institutions Code. This representation includes negotiating settlements and appearing in all juvenile dependency hearings, both at the trial and appellate courts, on behalf of the PSWs. As the attorney for the petitioner, County Counsel is responsible for the preparation and examination of witnesses, including experts and victims, in juvenile dependency trials. County Counsel also provides ongoing legal advice and training on juvenile dependency issues for PSWs.

City Attorney, San Diego

The City Attorney is responsible for the prosecution of all misdemeanor crimes occurring within the City of San Diego (excluding South Bay) and the city of Poway. All misdemeanor child abuse and child molest cases are vertically prosecuted by the Domestic Violence and Special Victims Unit. The assigned Deputy City Attorney, along with a Victim Advocate, will keep the victim and supporting adult/family member informed of the legal process throughout the criminal proceedings.

8. Therapeutic Interventions

All children who have been abused should be referred for counseling services. Non-offending family members, including siblings of the victim should also receive referrals for counseling. If a child lacks symptoms, he or she may not need of immediate treatment services. However, referrals should be the standard procedure rather than risking that some children who are in need of referrals do not receive them.

8.1 Trauma Assessment

- All children who have been abused should be assessed to determine if they are in need of trauma informed therapeutic services. The assessment protocol should use multiple informants, including the following elements:
 - Standardized assessments
 - A clinical interview of the child
 - Interview of parents and other caretakers
- Children who display posttraumatic symptoms should be referred for trauma specific treatments, such as Trauma Focused-Cognitive Behavioral Therapy.

8.2 Evidence-Based Therapy Services

- Therapy services should promote healing and not be forensic in nature. Children should receive the most effective therapy available to treat their specific symptoms.
- These services include:
 - Trauma-Focused Cognitive Behavioral Therapy
 - Parent-Child Interaction Therapy
- The therapist should be specially trained in Evidence Based Treatment for child abuse victims.
- Support from parents and/or caretakers is the most important predictor of the child's ability to make a successful recovery from the trauma.

8.3 Supporting the Child Victim Through the Legal Process

- The Kids and Teens in Court Programs are available to child and teen victims and witnesses who may need to testify in criminal or juvenile court. The program provides:
 - Psychoeducation to caretakers
 - Desensitization to the courtroom for children and adolescents

- Relaxation and other techniques for reducing anxiety in the courtroom for children and adolescents
- Information regarding the roles of courtroom personnel
- The support a child victim receives through the legal process can have a positive impact on the child's recovery.

discussing
4 pages

Child Abuse Training – After Ali Perez was shot we had a large turnover in the unit due to promotions, transfers, and retirements. This hadn't happened in several years so I asked, during briefing, what training was provided for our new detectives. I was told the new detectives ask the experienced detectives questions when they didn't know what to do. I explained that often people don't know what they don't know. That was not a training program for a professional organization, and I ordered training to be developed. Our biggest concerns were the safety of victims and case management.

- Several of the detectives in the unit were brought in specifically to finish cases not done by [REDACTED], when Duncan Fraser was the Child Abuse Lieutenant.
- We often talked about the [REDACTED] case in briefing, among the staff, with the captain, and between the sergeants in all CID Units. The message was always the same; we could not have another [REDACTED] case.
- I ordered our CID SharePoint Sites to be updated and filled with documents, checklists, policy, and other tools, for Department use and for candidates to read prior to interviews.
- Provided each of our detectives a County wide Child Abuse investigative protocol – I was on the committee at the tail end of the development of the protocol. There was discussion of the protocol locking our detectives into a particularly tight process from which any variation would be a violation. It was agreed our people and SDPD have so much experience with cases that for us, it was a guideline that could be flexible if needed.
- Provided each sergeant and detective with a Child Abuse investigative Checklist
- Had new detectives go on callouts with senior detectives like Homicide did
- Had new detectives attend forensic interviews where they were walked through by staff. The forensic interview is often the biggest part of a CAU, where evidence may be discovered to prove the case. This is the biggest difference between a normal crime case and CAU case and the social worker typically completed the interview with our detective watching as we want to limit the interaction of the victim and detective.
- Had their reports reviewed by experienced senior detectives - Tori, Donnie, [REDACTED] Pete Carrillo, Chris Cross, Matt Mays
- Tori Reden created and taught the Forms Manual

- Tori Reden gave training classes during lunch where we also offered cross training to our Sex Assault Detectives, several of whom expressed interest in becoming CAU detectives.
- We had briefing discussions with all detectives and DDAs participating
- When the [REDACTED] case occurred we explained to the detectives:
 - He was removed because he wasn't handling his case load
 - He should have told us if he needed help
 - If they needed help we could find a way to get the job done via teamwork.
 - After all we had to divide the cases between CAU/SAU/SAFE/CATCH
 - I was told we could not get more detectives due to lack of people, not lack of need and I shared that with all the CID Units at their briefings

Case Review and Quality Checks

In addition to the training materials and information we shared with our detectives, several steps and people were involved in checking the work of new detectives including the following:

- Discussions between investigators, sergeants, DDA's, and me of cases during briefings
- I attended Child Infant Death Review Board meetings, Child Protective Team (CPT) Management Meetings, and the Sergeants attended CPT Meetings. I never heard of a concern about a case of [REDACTED] Karo, or [REDACTED] from those places.
- I don't recall a problem with any case from the DA's Office after they were submitted.

• [REDACTED]

• [REDACTED]

• [REDACTED]

[REDACTED]

o [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

o [REDACTED]

■ [REDACTED]

■ [REDACTED]

o **Detectives –** [REDACTED]

o Detective Karo did a great job early on with his cases. His first involved self-styled tactical expert [REDACTED] who molested kids, fled in a Humvee, and was arrested by SDPD. It made the news and was well done.

o [REDACTED]

o [REDACTED]

[REDACTED]

o [REDACTED]

o [REDACTED]

o I asked the sergeants if the detectives in Child Abuse were completing their cases and the sergeants told me they were. Child Abuse Detectives had more open cases than Sex Assault Detectives who often wanted to eventually become Child Abuse Detectives so we discussed giving some Child Abuse cases to Sex Assault detectives for cross training purposes.

o At briefing I don't recall [REDACTED] ever saying anything critical about the cases of [REDACTED] or Karo.

o I had many conversations about a variety of things with [REDACTED] during the 3 years we worked together and he did not bring up the topic of [REDACTED] or Karo's work. He could easily have mentioned it anytime. He knew what actions we took when [REDACTED] failed to do his work.

o [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Lomnicky, Amanda

From: Duckworth, Jeff
Sent: Wednesday, August 27, 2014 1:58 PM
To: Jones, Kenneth
Subject: RE: Case

You bet.

From: Jones, Kenneth
Sent: Wednesday, August 27, 2014 1:56 PM
To: Duckworth, Jeff
Subject: RE: Case

Thank you Sir

From: Duckworth, Jeff
Sent: Wednesday, August 27, 2014 1:52 PM
To: Jones, Kenneth
Cc: Harvel, Christine
Subject: Case

I copied the note I received from Tim Dinger below.

Dear Sirs,

I interviewed a sexual assault victim named [REDACTED] (16 years old) at Aurora Hospital this morning. As I was interviewing [REDACTED] with the CWS worker, [REDACTED] complained about "nothing being done" on a prior 288 case with the Sheriff's Department.

I got back to the office and found the case, CN [REDACTED] According to the crime report sometime in late 2010 to early 2011 she was spending the night at a friend's house in Santee. During the visit a family friend of the friend's family named [REDACTED] (30-39 years old at the time) supplied her marijuana, got her stoned and attempted to penetrate her vagina with his penis. The case was assigned to Karo and according to the follow-up he had the address and phone number of the suspect in the state of Washington. Karo said in the report that he spoke to a Detective in Port Hadlock, Washington and that is where he got the suspects address and phone number. Karo said in the report that he tried to call the suspect several times over a two week period and couldn't reach the suspect. Karo suspended the case.

I think this case falls under the "needs to be reopened category" because Karo never sent a local cop in Washington over to the address to see if the suspect was there and made no further attempt to get a statement. Also, Karo's report states that he located a prior 23152 arrest for the suspect in San Diego County. So obviously there is a picture of the suspect available for a line-up and it was never done. I am going to get with Joel the analyst on Monday and see if he can locate fresh information on the suspect since he is probably still in Washington. I can work this case since I already have another case with the victim.

Tim

Jeffrey S. Duckworth, Lieutenant
San Diego County Sheriff's Department
Central Investigations Division

Family Protection Detail

Desk:



Cell:





San Diego County SHERIFF'S DEPARTMENT

2014-108.1

NOTICE OF PROPOSED DISCIPLINARY ACTION

TO: William D. Gore, Sheriff		DATE: July 29, 2015	
It is recommended that the following disciplinary action be administered to the below named employee:			
EMPLOYEE'S NAME:	Mark A. Karo	TITLE:	Deputy Sheriff
DEPARTMENT POLICY AND / OR PROCEDURE SECTION(S) VIOLATED:	2.30 Failure to Meet Standards	2.41 Departmental Reports	
	2.6 Conformance to Laws		
RECOMMENDED DISCIPLINE:	Termination		
SECOND LEVEL SUPERVISOR:	Jeffrey S. Duckworth, Lieutenant	DATE:	07/29/2015
LIST PRIOR FORMAL DISCIPLINE WITHIN LAST FIVE YEARS WITH DATE	None		
I have been advised of the above charges and recommended discipline:			
EMPLOYEE'S SIGNATURE:	<i>[Signature]</i>	DATE:	7/29/15
2 nd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i>	DATE:	7/29/15
3 rd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i> ACTING CHIEF	DATE:	07/30/15
COMMENTS:			
REVIEWED BY INTERNAL AFFAIRS:	<i>[Signature]</i> C-HANOVER-UT-#2453	DATE:	8/25/2015
4 th LEVEL SUPERVISOR SIGNATURE:	Pete Callewaert, Commander	DATE:	12/8/15
COMMENTS:			
ADDITIONAL REVIEW:	<i>[Signature]</i> Michael Barnett, Assistant Sheriff	DATE:	12/8/2015
ADDITIONAL REVIEW:	Mark P. Elvin, Undersheriff	DATE:	1-4-16
ADDITIONAL REVIEW:	William D. Gore, Sheriff	DATE:	1/4/16
INTERNAL AFFAIRS SECTION			
<input type="checkbox"/> WRITTEN REPRIMAND BY:		DATE:	
<input checked="" type="checkbox"/> NOTICE OF INTENT AND CHARGES:	<i>P. Shannon</i>	DATE:	10-14-16
<input checked="" type="checkbox"/> ORDER SERVED:	P. Shannon, Sergeant	DATE:	01-15-2016
<input checked="" type="checkbox"/> CIVIL SERVICE NOTIFIED:	M. Alvarez, Admin Sec I	DATE:	1-25-2016
<input checked="" type="checkbox"/> PAYROLL NOTIFIED:	M. Alvarez, Admin Sec I	DATE:	01-15-2016
FINAL ACTION TAKEN:	Termination Upheld/Skelly effective:		

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I.A. FILES
TO: 01-15-2016

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

January 26, 2016

IA# 2014-108.1

TO: Civil Service Commission
FROM: Jeffrey S. Duckworth, Lieutenant
Internal Affairs Unit (O41)

ORDER OF TERMINATION AND CHARGES – Mark Karo

The Order of Termination and Charges dated December 7, 2015, filed against Mark Karo has been received by the Civil Service Commission on: _____

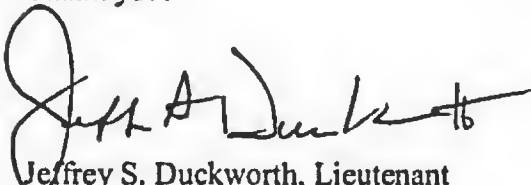
Date

Commission Response:

- [] The above individual **IIAS** appealed the Order of Termination and Charges.
[] The above individual **HAS NOT** appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.


Jeffrey S. Duckworth, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

December 7, 2015

Mark Karo



Dear Deputy Karo:

ORDER OF TERMINATION AND CHARGES, I.A. CASE # 2014-108.1

I hereby order that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes:

CAUSE I

You are guilty of inefficiency as set forth under Section 7.2(b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.30 – **Failure to Meet Standards**, in that: While working in the Sheriff's Child Abuse Unit as a detective, you demonstrated numerous deficiencies while investigating your cases. You were found to have submitted 13 substandard investigations for approval. Some of these shortcomings included incomplete investigations, poor investigative techniques, failure to conduct valid interviews, and relying on Child Protective Services (CPS) too heavily. As a result, the victims were left in a dangerous environment which could have potentially allowed them to be victimized further. Additionally, the suspects in these cases were not prosecuted to the fullest extent. You failed to perform your duties, and did not assume the responsibilities of your position. Your deficiencies did not establish nor maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this department.

CAUSE II

You are guilty of failure of good behavior as set forth under Section 7.2(r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.6 – **Conformance to Laws**, as it relates to California Penal Code Section 11166(k) in that: While investigating CN [REDACTED] a four year old female disclosed her grandfather pulled his pants down and exposed his genitals. You were subsequently made aware that the grandfather was now living

Keeping the Peace Since 1850

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I.A. FILES

TO

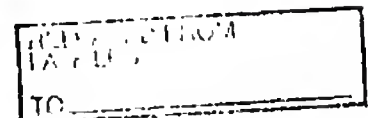
in Live Oak California, in Sutter County. The mother of the four year old female was concerned for her brother's children with whom the grandfather now lived with. You failed to cross-report these concerns about the children who lived on the property to the Sutter County Child Welfare Services. As a mandated reporter, you are required by law to report any suspected child abuse regardless if the incident occurred outside of the Sheriff's jurisdiction. This case had to be reassigned in which the appropriate notifications were made. Your failure to cross-report these concerns to Sutter County violated California Penal Code Section 11166(k). Per Section 2.6 – Conformance to Laws, Employees of this Department shall obey all laws of the United States, of this state, and of local jurisdictions.

CAUSE III

You are guilty of incompetency as set forth under Section 7.2(a) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.41 – Departmental Reports, in that: While investigating CN [REDACTED] you failed to accurately document relevant facts and went so far as to misrepresent the character and demeanor of the victim. The victim in this case was an underage female who disclosed being sexually abused by an adult male acquaintance. The victim told you during an interview the suspect inserted a portion of his penis into her vagina. You omitted this statement and criminal act from your follow-up investigation. Additionally, you mischaracterized the victim in your investigative report. You documented the victim as being uncooperative. In reality, the victim was tremendously cooperative and became upset with you due to your constant excuses how you could not pursue her case for prosecution. The victim even offered several investigative avenues for you to approach, all of which were dismissed and debated by you. Your excuses were false, and mere fabrications so you could persuade the victim into not prosecuting her case. Your report was not truthful, and contained inaccurate information, especially regarding the victim's demeanor during this process. Furthermore, you omitted pertinent information reasonably expected to be included for these specific cases.

CAUSE IV

You are guilty of acts that are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the San Diego County Sheriff's Department Executive Order and the Mission, Vision, Values and Goals. Your conduct constituting such acts inimical to the public service is set forth under Causes I through III above.



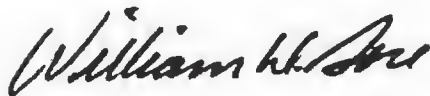
Order of Termination and Charges, I.A. Case #2014-108.1
Deputy Mark Karo
December 7, 2015

Page 3

Your attention is directed to Sections 904.1, 904.2, 909, 909.1, 910.1(k), and 910 (k)(l) of the Charter of the County of San Diego and Rule VII of the Civil Services Rules. If you wish to appeal this order to the Civil Service Commission of the County of San Diego, you must file such an appeal and an answer in writing with the Commission within ten (10) calendar days after this order is presented to you.

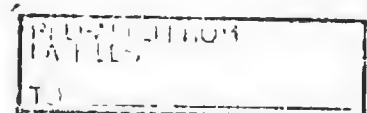
Such an appeal and answer must be in writing and delivered to the Civil Service Commission at its offices at 1600 Pacific Highway, Room 458, San Diego, California 92101, within such ten (10) calendar day period. An appeal is not valid unless it is actually received by the Commission within such ten (10) calendar day period. A copy of such appeal and answer shall also be served, either personally or by mail, by the employee on the undersigned within the same ten (10) calendar day period.

Sincerely,



William D. Gore, Sheriff

WDG:kwj





San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

August 27, 2015

Mark Karo
[REDACTED]

Dear Deputy Karo:

NOTICE OF INTENT OF TERMINATION AND CHARGES, CASE # 2014-108.1

Please take notice that it is my intention to recommend to the Sheriff that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes:

CAUSE I

You are guilty of inefficiency as set forth under Section 7.2(b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.30 – **Failure to Meet Standards**, in that: While working in the Sheriff's Child Abuse Unit as a detective, you demonstrated numerous deficiencies while investigating your cases. You were found to have submitted 13 substandard investigations for approval. Some of these shortcomings included incomplete investigations, poor investigative techniques, failure to conduct valid interviews, and relying on Child Protective Services (CPS) too heavily. As a result, the victims were left in a dangerous environment which could have potentially allowed them to be victimized further. Additionally, the suspects in these cases were not prosecuted to the fullest extent. You failed to perform your duties, and did not assume the responsibilities of your position. Your deficiencies did not establish nor maintain the highest standards of efficiency in carrying out the mission, functions, and objectives of this Department.

CAUSE II

You are guilty of failure of good behavior as set forth under Section 7.2(r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.6 – **Conformance to Laws**, as it relates to California Penal Code Section 11166(k) in that: While investigating CN [REDACTED] a four year old female disclosed her grandfather pulled his pants down and exposed his genitals. You were subsequently made aware that the grandfather was now living in Live Oak, California, in Sutter County. The mother of the four year old female was concerned for her brother's children with whom the grandfather now lived

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with. You failed to cross-report these concerns about the children who lived on the property to the Sutter County Child Welfare Services. As a mandated reporter, you are required by law to report any suspected child abuse regardless if the incident occurred outside of the Sheriff's jurisdiction. This case had to be reassigned in which the appropriate notifications were made. Your failure to cross-report these concerns to Sutter County violated California Penal Code Section 11166(k). Per Section 2.6 – Conformance to Laws, Employees of this Department shall obey all laws of the United States, of this state, and of local jurisdictions.

CAUSE III

You are guilty of incompetency as set forth under Section 7.2(a) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.41 – Departmental Reports, in that: While investigating CN [REDACTED] you failed to accurately document relevant facts and went so far as to misrepresent the character and demeanor of the victim. The victim in this case was an underage female who disclosed being sexually abused by an adult male acquaintance. The victim told you during an interview the suspect inserted a portion of his penis into her vagina. You omitted this statement and criminal act from your follow-up investigation. Additionally, you mischaracterized the victim in your investigative report. You documented the victim as being uncooperative. In reality, the victim was tremendously cooperative and became upset with you due to your constant excuses how you could not pursue her case for prosecution. The victim even offered several investigative avenues for you to approach, all of which were dismissed and debated by you. Your excuses were false, and mere fabrications so you could persuade the victim into not prosecuting her case. Your report was not truthful, and contained inaccurate information, especially regarding the victim's demeanor during this process. Furthermore, you omitted pertinent information reasonably expected to be included for these specific cases.

CAUSE IV

You are guilty of acts that are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the San Diego County Sheriff's Department Executive Order and the Mission, Vision, Values and Goals. Your conduct constituting such acts inimical to the public service is set forth under Causes I through III above.

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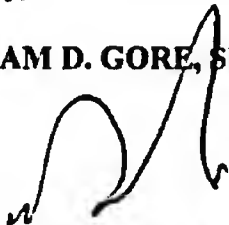
You have five (5) regular business days to request a Skelly Conference. You may respond either orally, in writing, or both, regarding the above proposed charges and discipline. Your response will be considered by the Sheriff before final action is initiated. Upon receipt of this notice you will be provided with all documents possessed by this department upon which this proposed action is based. If you have any questions of said documents, please contact the Internal Affairs Unit.

You have until 4:30 p.m. on 10-21-15 to contact Internal Affairs at (858) 974-2065, if you wish to respond to the above charges and discipline. Internal Affairs will provide you the name of a Skelly Officer, whom you should contact without delay, as the conference must be held within ten (10) days, unless waived by mutual agreement. If there are extenuating circumstances precluding you from staying within this time limit, contact Internal Affairs immediately.

If you fail to respond, or if your response is unsatisfactory, an Order of Termination and Charges will be served upon you and the discipline initiated.

Sincerely,

WILLIAM D. GORE, SHERIFF

A handwritten signature in black ink, appearing to read 'William Donahue', written over the printed name.

William Donahue, Captain
Central Investigations Division

WDG:WD:kwj

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FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

- ☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**
- ☒ **NOTICE OF INTENT TO TERMINATE AND CHARGES**
- ☐ **NOTICE OF INTENT OF DEMOTION AND CHARGES**

- ☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **ORDER OF SUSPENSION AND CHARGES**
- ☐ **ORDER OF TERMINATION AND CHARGES**
- ☐ **ORDER OF DEMOTION AND CHARGES**

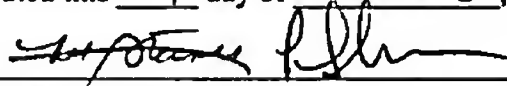
- ☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

Fern STEINER personally at San Diego on
10-14-15.

I declare under penalty of perjury that the foregoing is true and correct.


Executed this 14 day of OCTOBER, 2015, at San Diego, California.


Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 14th day of OCTOBER, 2015.

SIGNED 

IA# 2014-108.1

Released from I.A. Files

To:

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**

☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**

☐ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

☐ **NOTICE OF INTENT OF DEMOTION AND CHARGES**

☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**

☐ **ORDER OF SUSPENSION AND CHARGES**

☒ **ORDER OF TERMINATION AND CHARGES**

☐ **ORDER OF DEMOTION AND CHARGES**

☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

FERN STEINER personally at _____ on _____

1/15/16

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15 day of JANUARY, 2016, at SAN DIEGO, California.

[Signature] #2406
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 15 day of JANUARY, 2016.

SIGNED [Signature]

IA# 2014-108.1

Released from I.A. Files

To: [Signature]



RECEIPT OF MATERIALS

EMPLOYEE: Mark Karo #5052 / 035194

Case # 2014-108.1

[illegible]



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

November 18, 2015

TO: William D. Gore, Sheriff

FROM: L. James Bovet, Captain
Santee Patrol Station

VIA: Chain of Command

SKELLY HEARING FOR DETECTIVE MARK KARO #5052 - IA CASE #2014-108.1

COMMAND RECOMMENDATION

Lieutenant Jeff Duckworth has recommended that Detective Karo be terminated from employment with the Sheriff's Department.

SYNOPSIS

Detective Mark Karo was assigned to the Sheriff's Child Abuse Unit in May of 2013. It was determined that Detective Karo failed to investigate his assigned cases properly while assigned to the unit. He failed to conform to state laws by not cross reporting a child abuse case to another agency as required. He was found to have misrepresented facts and omitted facts in departmental reports. Detective Karo's incompetency while assigned to the Child Abuse Unit potentially allowed victims to be put in further danger or re-victimized. Detective Karo's acts were found to be contrary to the Sheriff's Department's Mission, Vision, Values and Goals.

The Notice of Intent to Terminate was for the following Causes:

Cause I	2.30	Failure to Meet Standards
Cause II	2.6	Conformance to Laws
Cause III	2.41	Departmental Reports
Cause IV	7.2	Rule VII of the Civil Service Commission of the County of San Diego.

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TO _____

SKELLY HEARING FOR DETECTIVE MARK KARO - IA CASE #2014-108.I

November 18, 2014

Page 2

CONDUCT OF THE SKELLY HEARING

The Skelly hearing was scheduled by mutual consent for November 5, 2015, at the Santee Patrol Station. Detective Karo was present with his representative, attorney Fern Steiner of the law firm of Smith, Steiner, Vanderpool and Wax. Ms. Steiner and Detective Karo did not wish to go over any documents I had for this proceeding as Ms. Steiner verbally indicated to me they were ready to proceed. I recorded the hearing and a compact disc of the original recording has been provided with this report.

In preparation for the hearing, I read the entire Internal Affairs investigation, reviewed Lieutenant Duckworth's recommendation and rationale and listened to the audio recordings of the investigation and pre-disciplinary hearing.

At the beginning of the conference, Detective Karo and Ms. Steiner answered affirmatively when I asked them to verify that they had received copies of the following documents:

- Notice of Disciplinary Action
- Notice of Intent to Terminate
- Disciplinary Recommendation and Rationale by Lt. Duckworth
- Investigative Report by Sergeant Jones
- Skelly Conference letter
- Order Not to Disclose
- Declaration/Acknowledgement of Personal Service
- Compact Discs of recorded interviews

I also asked Detective Karo the following questions; his answers are italicized:

- Are you aware of the recommended action? *"Yes"*
- Have you reviewed the Internal Affairs investigation? *"Yes"*
- Do you understand this is your opportunity to respond to the charges and the recommended discipline? *"Yes"*
- Do you have any objections to my being the Skelly Hearing Officer? *"No sir"*

Ms. Steiner made a number of points in mitigation for Detective Karo. Detective Karo spoke on his own behalf. Ms. Steiner broke down her arguments in the following areas; the investigation was not timely, adequate training was not provided to Detective Karo that caused him to conduct flawed investigations, an acceptance by supervision of Karo's investigative work resulting in Karo believing his work was satisfactory. Ms. Steiner also argued that Detective Karo was investigated for the same violations that [REDACTED] [REDACTED] [REDACTED] were investigated for, but only Karo was recommended for termination. I will not address the investigations of [REDACTED] [REDACTED] [REDACTED] as those [REDACTED] investigations were handled independently of this hearing. I have summarized Ms. Steiner's and Detective Karo's statements below.

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SKELLY HEARING FOR DETECTIVE MARK KARO - IA CASE #2014-108.1

November 18, 2014

Page 3

Ms. Steiner believed Child Abuse supervisors were put on notice of Karo's investigative deficiencies, and the other accused detectives, as early as 2013. She referred to [REDACTED] speaking with [REDACTED] in September of 2013 about the deficiencies of [REDACTED] and [REDACTED] delivered his report detailing the issues that lead to the eventual internal affairs investigation to Lieutenant Duckworth on June 14, 2014. Ms. Steiner said even with this date as a starting point, the Sheriff's Department still did not serve Detective Karo his discipline until October 15, 2015 which violated the Government Code. Ms. Steiner directed my attention to section 3304(d)(1), procedural rights of the California Government Code.

Ms. Steiner said Detective Karo was never given the proper training. She disagreed with Lieutenant Duckworth concluding the lack of basic investigator training was irrelevant. She said he lacked the basic investigator skills that he would have received had he gone to basic investigator training and had he been assigned to an area detective position prior to being assigned to the Child Abuse Unit. Ms. Steiner said Karo did not get paired with a senior detective as others had so this also lead to Karo not being trained properly.

Ms. Steiner further argued Detective Karo's supervisors were approving his investigations and Karo received good annual evaluations. Detective Karo was under the impression that his work was good and never received a word otherwise from his supervisors. Ms. Steiner said that all [REDACTED] in this investigation were found by Lieutenant Duckworth as lacking training and doing investigations in the same manner. Detective Karo was never put on notice that his investigations were substandard until after his grievance was filed. She disagreed with Lieutenant Duckworth's opinion that Karo was lazy and did not want to do his work diligently. She reemphasized that all three of the detectives were doing investigations the same, yet only Detective Karo was so deficient that he should be fired. Ms. Steiner found Lieutenant Duckworth's comments about Karo rather personal, and I believed she thought his comments were inappropriate.

Ms. Steiner added that Detective Karo learned from Sergeant Jones after going through each case step by step and he now understands there were many things he should have done. Ms. Steiner said he just did not know how to comprehensively investigate these cases because he was never a basic investigator and only had traffic investigator experience. She believed the Department must train people to do their job and this was not done in Detective Karo's case.

Ms. Steiner brought up the case # [REDACTED] She brought up the inconsistency claim Detective Karo believed created issues with proceeding with the case. She said Detective Karo has since been doing well at the Rancho San Diego Station as a detective and no longer has the same deficiencies. She said the Department did not set up Detective Karo for success because he was not trained to do the job as a child abuse investigator. Detective Karo did not receive the proper training and was not supervised properly. Detective Karo never got a chance to fix his deficiencies because none were brought up to him until after he filed a grievance. He simply did not know he was performing poorly as a child abuse investigator.

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IA FILES
TO _____

SKELLY HEARING FOR DETECTIVE MARK KARO - IA CASE #2014-108.1

November 18, 2014

Page 4

Ms. Steiner brought up all of Detective Karo's employee evaluations where he was rated as "meets expectations" in judgment and investigative skills in particular. She noted evaluations from Poway traffic and the Child Abuse Unit where he was rated as meeting expectations and the evaluations were both signed by Lieutenant Duckworth. She said Detective Karo has fixed his performance issues and has done very well in Rancho San Diego. Ms. Steiner gave me copies of his evaluations. She implied the evaluations show that Detective Karo has demonstrated he can do the job of an investigator despite Lieutenant Duckworth's opinion that he simply cannot. She said Detective Karo has no complaints and he has been doing the job well since leaving the Child Abuse Unit. Ms. Steiner told me his Rancho San Diego supervisors are willing to speak with me regarding his work performance while assigned as an area investigator. Ms. Steiner said Detective Karo should not be fired for the first time he was found to be deficient. He should be given a chance to improve, as he has done in Rancho San Diego, and not just fired on the first offense.

I stated there was a systematic breakdown of the unit from the command staff on down. It was clear to me that the supervisors of the Child Abuse Unit gave no credibility to [REDACTED] allegations. It was in the interest of [REDACTED] to not find any deficient investigations as it would have shown their deficiencies as well. I believe an audit by [REDACTED] was bound to fail for this reason. I also found [REDACTED] was ineffective and deficient in his duties. It is clear to me the breakdown of supervision had some responsibility for Detective Karo's failure.

I asked Detective Karo if when he got a case with allegations of abuse, or prior acts and victims, how that would not raise red flags for him. I mentioned he did receive training in child abuse and sexual assault while assigned to the Child Abuse Unit, upwards of over 88 hours. Detective Karo said the training was very specific and the training was not investigative training as far as how to proceed with a case. He argued this type of basic training was found in basic investigative training that he did not have.

Detective Karo said his focus was normally on the stronger cases. He pointed out to me that he had many successful cases where people are serving life terms and cases he received accolades by prosecutors for his good work. He was not lazy and did not want children to be hurt. He got "a ton of cases" that he had to organize. He let some cases go that he felt would not be prosecuted because he had to organize his caseload. He admits a lot of things slipped through the cracks because he did not do follow up investigations on all his cases. He focused on the cases he knew would be successfully prosecuted.

I asked him if a child abuse investigator should determine a crime had occurred when assigned a new case. He agreed. I asked him if a case could be comprehensively closed, and a determination of whether a crime has occurred, if he had not contacted all witnesses, suspects and victims. He agreed a case could not be comprehensively investigated without contacting all parties. I pointed out to him that on many of these cases he never reached out to witnesses, suspects or victims and relied on CPS for case closures.

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I asked Detective Karo if this was his custom and habit (not to do thorough investigations) throughout the years as a deputy sheriff or did he develop this as a child abuse detective. He told me he never had this problem before. Detective Karo said it was different in the Child Abuse Unit. I told him it was a basic skillset. He apparently lacked the skills to comprehensively investigate a crime in the Child Abuse Unit because he failed to do it in many of the cases. I asked him if he was successful at investigating and substantiating crimes by contacting all involved parties prior to coming to the Child Abuse Unit or was he always deficient in these skills throughout his tenure. I continued that his deficiencies were only brought to light once he was in a very focused and high profile unit. He disagreed with me. I asked him why he did not carry those skills into the Child Abuse Unit and how did he stop using those skills as he claimed he had successfully done before.

Detective Karo said he did not know if he had an answer to my questions. He felt like it was a completely different situation in the Child Abuse Unit. Some cases can be two weeks old and already cleared by CPS. He said he relied too much on CPS investigations to close cases. He was told by other child abuse detectives to close cases in this manner. I understand when a case can be closed by CPS, however; I pointed out that CPS may be able to help substantiate whether a crime occurred, but CPS is not capable of determining whether a crime had occurred or not and were simply there to protect the child. Ms. Steiner said Detective Karo has learned his lesson on this and now thoroughly investigates crimes.

Detective Karo did not believe he lacked basic investigative skills. He appreciated Sergeant Jones bringing his deficiencies to light. He said it was completely different going from traffic to child abuse. He thought he was capable of going to child abuse from traffic, but he now believes he was not ready to work an advanced investigative unit. He said he went on some calls with child abuse detectives and asked other child abuse investigators about how to investigate cases. He wanted to do a good job and has dedicated almost ten years to the Department.

I asked him about the omissions that Lieutenant Duckworth pointed out while interviewing a 15 year old victim by telephone. I asked him why he omitted things that tended to show a crime was committed. He said he did not believe he was purposely omitting anything or being untruthful. He said he did not think he could answer that a year and half later since he wrote something. But he never intended to omit any pertinent information. He was focused on where the case was going to go. I brought up the fact that he never interviewed the suspect and that sometimes suspects admit their crimes. He agreed with me and said he has had suspects confess to him and has been very good at eliciting confessions from people. But in this case he did not know he could fly to Washington. He would have done that had he known. He tried to contact the suspect by telephone. He did not get a hold of the suspect. He admits making a mistake by not digging further into the suspect. But he was focused on the case not going anywhere down the road. He said there was zero evidence. I pointed out that a lot of child abuse cases are like that. He agreed it was not a great interview. I told him he flabbergasted the victim on the phone and she would not let him talk her out of the case.

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I asked him if he was caught up in closing cases that he thought were bad because of the caseload. He said that was a factor to a degree because many other detectives were pressured to close their cases. So he put more work into the cases he thought were prosecutable. He added some prosecutors were happy with his work. He had many good convictions.

DISCUSSION

Detective Karo's due process rights have been observed.

Ms. Steiner alleged the timeliness of the discipline service to Detective Karo was a violation of Government Code section 3304(d)(1). Her argument was section 3304(d)(1) read the one year time period began when "anyone" who can initiate an investigation is put on notice. She believed the notice occurred in 2013 when [REDACTED] first talked to Sergeants Vickory, [REDACTED] [REDACTED] [REDACTED] spoke with [REDACTED] about Karo being deficient on February 26, 2014. Ms. Steiner referred to the part of the section that gave an exception for the one year requirement when multiple deputies are involved in the same internal investigation. She stated whether it was a 2013 to 2015 timeline or a February 2014 to October 2015 timeline, either of these timelines constituted a violation of the timeliness requirement of this section.

Ms. Steiner provided me a copy of the section. The section states in part "public agency's discovery by a person authorized to initiate an investigation". Lieutenant Duckworth did make a formal internal affairs complaint against Detective Karo [REDACTED] on July 9, 2014. I agree Lieutenant Duckworth discovered the allegations of misconduct, but he was not authorized to begin an investigation. That authorization rests solely with the Internal Affairs Unit. The internal affairs complaint process exists so allegations of wrong doing can be somewhat vetted first by the Internal Affairs Unit before assigning to an Internal Affairs sergeant for investigation. I know that many of the complaints received by the Internal Affairs Unit do not rise to the level of wrong doing by members of the Department and are not assigned for investigation. Still other complaints may be handled informally depending on the facts of each received complaint. In any case, my opinion is the one year timeline began on July 9, 2014 when Lieutenant Duckworth first submitted the internal affairs complaint.

It is also my opinion there was an exception to the one year timeline. Section 3304(D) of the Government Code gives an exception to the year requirement if the investigation, "involves more than one employee and requires a reasonable extension". I believe it was reasonable to extend the year timeline due to the extensiveness of an investigation that involved so many employees, [REDACTED] [REDACTED].

Ms. Steiner's second argument was that Detective Karo never received any training in the Child Abuse Unit. Specifically she said he never had basic investigative training that would have made him successful as a child abuse investigator. It was also Detective Karo's opinion that an advanced unit is somehow different and this caused him to let things fall through the cracks. I agree there was no formal training program in the unit. It is clear to me that he was assigned to callouts, and therefore on the job training by senior investigators, when he first was assigned to

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SKELLY HEARING FOR DETECTIVE MARK KARO - IA CASE #2014-108.1

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the unit and was told to ask questions of his peers. I also agree with Lieutenant Duckworth that Detective Karo had numerous hours of training to include basic investigation techniques.

All deputy sheriffs are taught at the academy how to detect, identify and substantiate a crime. Deputies are taught a simple process of asking and answering the "who, what, when, where, why, and how". This process is essentially the abc's of a basic or preliminary investigation. Deputies are taught to take statements from all parties to a crime and answer the abc questions in their report. I believe Detective Karo possessed the ability to conduct a preliminary or basic investigation. This is evident in the fact that he successfully passed phase training in patrol and performed satisfactorily as a patrol deputy and traffic investigator.

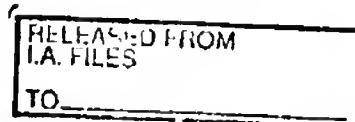
Detective Karo received 96 hours of training while assigned to the Child Abuse Unit. I have received similar training throughout my career. I was assigned to the Child Abuse Unit twice, once as a detective and again as a sergeant. I know that while the training Detective Karo received was specific to certain crimes, the courses do in fact provide a detective with investigative guidelines for crimes of sexual or physical abuse of children. The courses highlight the important nuances of a child abuse case and what is needed for evidentiary purposes to substantiate a crime was committed and that a particular person committed the crime. The basic abc's of investigations are still relevant and must be answered in any investigation whether it's a child abuse case or not.

Detective Karo said he did possess the ability to comprehensively investigate a crime before being assigned to the Child Abuse Unit. He told me he was successful at investigating crimes before he was assigned to the Child Abuse Unit. I asked him if he always failed to contact all witnesses of a crime before coming to the unit or if it was something he developed in the unit. He said it "was different" in child abuse and he focused on the cases he thought were prosecutable. He also said he was told to depend on CPS. Detective Karo relied on training he received regarding CPS referrals from his peers in this instance, according to him.

It is my opinion Detective Karo had a demonstrated knowledge of basic investigations as a patrol deputy and a traffic investigator and did have enough training to perform his duties as a child abuse investigator.

Detective Karo showed a pattern of not performing his basic job function of comprehensively investigating crimes of child abuse. He chose to close many of his assigned cases without ever thoroughly investigating the allegations so he never knew whether a crime occurred or if a crime was being perpetrated on a victim. When pressed about closing the cases he told me he focused on the cases he knew would be prosecutable. This was a conscious decision to not investigate his other cases.

Detective Karo investigated some cases properly and obtained convictions on those cases by his own accounts. Detective Karo would have had to answer simple abc questions for an investigation from all involved parties in order to gain a conviction. In my 26 years as a deputy sheriff, I have never seen a District Attorney present a criminal case from a Sheriff's Detective



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without having all the facts of a case to include the abc's of a basic investigation. Because of this, it is clear to me that he knew how to properly investigate a child abuse case he deemed worthy of prosecution, but then made a conscious decision to not to investigate some of his other assigned cases.

Detective Karo told me it "was different" in the Child Abuse Unit, yet he then offered cases to me where he successfully obtained convictions and therefore would have done a comprehensive investigation. He offered no good reason, really, for not investigating all of his assigned cases. He did say he focused on the cases likely to be prosecuted. But, I believe Detective Karo lacked the experience as an investigator to make a decision as to whether a case was prosecutable or not.

It is my opinion that it takes several years before a child abuse investigator has enough breadth of experience to give expert opinion on a child abuse case. Detective Karo's one year and two months of experience in the child abuse unit, without any previous experience as a detective, required him to investigate all facets of a child abuse case so he may learn the nuances of completing a comprehensive investigation. There are simply too many different fact patterns of crimes and too many possible outcomes for a one year detective to fully comprehend. This leaves me to believe he purposely made the decision to investigate certain cases, not based on knowledge and experience, but for some other self-serving purpose.

I listened to the telephone interview of the 15 year old victim previously discussed, case # [REDACTED]. It is my opinion that he purposely was trying to talk this child victim into not pursuing a criminal case. Detective Karo made the most minimal attempt to contact the suspect and that was consistent with his desire to not investigate the case. I have handled cases very similar to the fact pattern of this case and was able substantiate a crime occurred. Detective Karo's handling of this case, and the extremely poor handling of the victim, was an embarrassment to the Sheriff Department.

This brings me to the misrepresentation and omissions in Detective Karo's closing of this case. He omitted a felony crime allegation from the victim and misrepresented the victim did not want to prosecute. Detective Karo wrote his follow-up report to this investigation in such a way as to not raise any suspicion from his supervisors so that his malfeasance would not be discovered.

Ms. Steiner argued Detective Karo's supervisors never brought up any deficiencies to him. Reviewing this internal affairs case made me form the opinion that his supervisors reviewed good work from Karo where he obtained convictions. But they also reviewed cases where Detective Karo closed cases in a reasonable manner, or at least, as far as a supervisor could tell based off of how Detective Karo wrote the case closure submitted to them for approval. Detective Karo certainly wrote the closure case # [REDACTED] in such a way as to lead a reader to conclude the case would not likely be substantiated.

There was at least one of other case (# [REDACTED]) reassigned to another detective that found the victim cooperative, yet Karo wrote in his closure of the case the victim was not cooperative. It

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was undisputed in this case that Detective Karo failed to cross report the incident to Sutter County as required by Penal Code section 11666(k).

I agree the supervision of the unit was poor and should have been better. I can conclude Detective Karo purposely fooled his supervisors into thinking his work was satisfactorily done. This certainly was the case for # [REDACTED] and it seems likely Detective Karo did it in at least one other case that was identified.

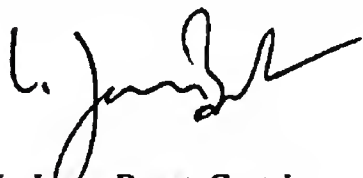
I agree with Lieutenant Duckworth that omitting or misrepresenting facts from a case puts a detective's integrity into question and may be cause to be placed on the "Brady List" by the District Attorney's office. Detective Karo essentially falsified a report which leads me to doubt any report he has submitted or would submit in the future. Because of this distrust of Detective Karo's work, he cannot be depended upon to carry out his duties as a deputy sheriff.

For all the reasons I mentioned above, I concluded that Lieutenant Duckworth's recommendation is reasonable and should be followed.

RECOMMENDATION

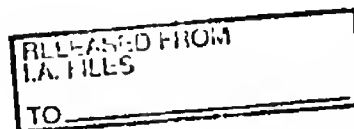
The proposed discipline is reasonable and should be imposed.

WILLIAM D. GORE, SHERIFF



**L. James Bovet, Captain
Santee Patrol Station**

LJM/jb




SKELLY HEARING FOR DETECTIVE MARK KARO - 1A CASE #2014-108.1

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ENDORSEMENTS




Peter Calleweart, Commander
Law Enforcement Operations – Investigations

☒ Approve ☐ Disapprove

Date: 11/19/15

Comments:



Michael Barnett, Assistant Sheriff
Law Enforcement Services Bureau

☒ Approve ☐ Disapprove

Date: 11/30/2015

Comments:

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SKELLY HEARING FOR DETECTIVE MARK KARO - IA CASE #2014-108.1

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Mark Elvin, Undersheriff
Office of the Sheriff

☒ Approve ☐ Disapprove

Date: 1-4-16

Comments:



William D. Gore, Sheriff

☒ Approve ☐ Disapprove

Date: 1/4/16

Comments:



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RECEIPT OF MATERIALS

EMPLOYEE: Mark Karo #5062 / 035194

Case # 2014-108.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Mark Karo dated 07-29-2015	 10/14/15	 10-14-15
Notice of Intent of Termination and Charges to Mark Karo dated 08-27-2015		
Discipline Recommendation & Rationale to Sheriff Gore from Lieutenant Duckworth dated 07-06-2015		
Addendum by Sergeant K. Jones dated 06-25-2015		
Three (3) CD-Rs		
Investigative reports by Sergeant K. Jones dated 04-10-2015 and attachments (Binders 1 & 2)		
Skelly Conference Letter to Mark Karo		
Order Not to Disclose Materials to Mark Karo		
Declaration/Acknowledgement of Personal Service		

July 8, 2014

TO: Anthony Ray, Captain
FROM: Mark Karo, Deputy Sheriff
RE: Request for administrative review of alleged punitive reassignment.

Captain Ray,

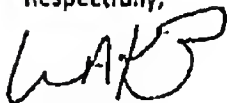
On 7/8/14, I was notified by Captain William Donahue that I am being transferred effective July 11, 2014 to San Marcos patrol. Captain Donahue cited performance issues but would not elaborate on what those performance issues are.

This transfer comes after a grievance was filed with the county by me and two other detectives citing a hostile work environment, and a formal Internal Affairs complaint which was also submitted by me.

It is my belief that this transfer is retaliatory in nature. The loss of a detective premium makes this transfer punitive in nature.

Thank you for your assistance in this matter.

Respectfully,



Mark A. Karo

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TO _____



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 14, 2014

To: Anthony Ray, Captain
Personnel Division

From: Jeffrey S. Duckworth, Lieutenant
Central Investigations Division—Family Protection Detail

Via: William Donahue, Captain
Central Investigations Division

BACKGROUND FOR 336 APPEAL REQUEST

In response to your request dated July 8, 2014, I am providing background information regarding the decision to transfer Deputy Mark Karo from the Child Abuse Unit.

On June 25, 2014, Captain Donahue and I met with Captain Mike Hernandez and his staff at the Special Investigations Division office to request an audit of all Child Abuse Unit investigations from January 2014 to June 2014. The parameters of the audit included an independent evaluation of every case to determine if the cases were being investigated properly, and to identify any deficiencies, patterns of deficiencies, and to determine if supervisors were properly monitoring detectives' cases.

The Special Investigations Division (SID) audit team included Lieutenant David Brown, Sergeant Justin White, Sergeant Damon Blankenbaker, and Sergeant Todd Norton. All team members have extensive investigative experience, and Sergeant White was a supervisor in the Child Abuse Unit. The audit process consisted of all members of the team reading each case together on a large screen. After reading each case, team members discussed the case and each team member was permitted to give their opinions regarding the case.

On July 8, 2014, Captain Mike Hernandez and his staff presented the findings of their audit during a meeting with command staff from the Law Enforcement Services Bureau, the Human Resources Bureau, and the Undersheriff. Captain Donahue and I were present.

The audit revealed that a majority of detectives assigned to the unit were conducting proper investigations and that there were many superior investigations. Unfortunately, the audit revealed that Deputy Karo demonstrated a pattern of child abuse investigations that were disturbingly deficient.

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In general, the deficiencies included:

- Improper documentation of facts
- Dates, times, location or method of interviews (e.g. by phone, e-mail, in person) not always documented.
- Ignoring partial disclosures of abuse by children by stating there was "no disclosure."
- Improper follow-up including failure to interview suspects, witnesses, and victims.
- No documentation that law enforcement databases were utilized to conduct background inquiries on suspects, witnesses, and victims.
- Relying too much on Child Welfare Services interviews rather than conducting an independent investigation and interviews when appropriate.
- Conducting suspect interrogations and victim interviews mostly by telephone which is not preferable in most cases.
- No preparation of search warrants when appropriate.
- Minimal follow-up and effort.

The SID team highlighted several cases that demonstrated the aforementioned deficient patterns that appeared to be the norm for Deputy Karo. I also reviewed those cases, and included the following summaries for your review.

Deputy Karo

- Case [REDACTED]—This case involved a 4-year old child who returned to her mother's home after being with her father. The child had a bite mark on his arm and disclosed her father was mad and bit her. The mother also found a bruise on the girl's torso. The victim's story changed when CWS interviewed the victim—the victim said she and dad were just playing. The victim's mother sent a photograph of the bite mark to the Deputy Karo. There is clearly a bite mark on the child's arm. However, Deputy Karo wrote, "The photos were unclear, and I was unable to discern obvious marks of bruising..." Deputy Karo opined there was insufficient evidence to show a crime occurred, and he closed the case as "Departmental Closure." Deputy Karo made no attempt to document the suspect's criminal history or contact the suspect for an interrogation. Deputy Karo relied on the CWS worker's interview and did not schedule a forensic interview to determine if the child had been physically abused.
- Cases [REDACTED]—This case involved a call-out to Children's Hospital for a three year old boy who had severe burns to his genitals and thigh area. The victim's mother was a suspect because she failed to get the child treated for about six days after the injury. There were other siblings in the home who CWS removed because of the mother's failure to protect the victim.

During Deputy Karo's interview with the victim's mother, it became clear that the mother's older son, [REDACTED] who was 25 years old, was a suspect who may have given the victim a scalding shower for urinating in his pants. The mother denied being home when [REDACTED] gave the victim a hot shower. It was also clear the mother was less than candid.

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Deputy Karo's interview of a witness, who was a roommate in the victim's home, was lacking a lot of information that was either not documented or not asked for. (e.g. who takes care of the children in the home, who changes diapers, is it normal for [REDACTED] to give the victim a shower, does the suspect discipline the child, who had access to the child when the injury occurred, do you know where the suspect [REDACTED] might be, etc.?) Deputy Karo had the mother conduct a controlled telephone call to [REDACTED] who was outstanding (a BOL was issued). Even though Deputy Karo had [REDACTED] telephone number, he did not attempt to contact him directly. This case appears to have been submitted to the District Attorney in March of 2014, but there are no case updates to indicate a disposition.

- Case [REDACTED]—This case involved a four year old child who disclosed sexual abuse by his mother's boyfriend. During a forensic interview, the child recanted by saying his mother told him that the suspect did not touch him and he should not say that. Detective Karo did not confront the mother about this nor did he attempt to talk to the suspect. There was an older sibling in the house who disclosed she was touched inappropriately when she was a child by her step-dad who sometimes cares for her own children. If true, those children might also be in danger. There is no documentation that Deputy Karo did anything with that information.
- Case [REDACTED]—This case involved a 13-year old child who suffered a fractured nasal bone when his father punched him. Deputy Karo did not conduct any investigation other than reading the preliminary report and talking to a CWS worker. CWS initially removed the victim and his siblings from the home while they completed their investigation, but returned them saying a parenting plan would be implemented. Deputy Karo closed the case as a "Department Closure."

On July 1, 2014, [REDACTED] returned this case to Deputy Karo to conduct a forensic interview to determine if there were other incidents that were not reported. On July 11, 2014, Deputy Sossaman began investigating the case because Deputy Karo left the unit. Deputy Sossaman discovered the child had suffered a broken arm and a broken hip previously. The broken arm seems to have occurred in another incident with the child's father. It was apparent to Deputy Sossaman, who met the child's mother, the victim and the victim's two siblings, that the children have been coached about the events so as not to implicate their father. The victim's mother is minimizing her husband's involvement and the injury to her son. Deputy Sossaman discovered the victim spoke to several friends at school which was the impetus for the CWS referral. These children should have been interviewed by law enforcement to determine what the victim told them. This case requires further investigation including additional interviews. Deputy Karo closed this case prematurely.

Summary

Child abuse cases carry great weight. A case that is not investigated properly can lead to additional victimization and abuse of children. As a result, child abuse investigators have to be passionate and self-motivated to leave no stone unturned in examining each allegation of abuse. Not every deputy sheriff has the skills, motivation, desire and expertise necessary to be a

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Background for 3.36 Appeal
July 14, 2014
Page 4 of 5

successful child abuse investigator. The strengths and skills that make a good patrol officer or traffic investigator do not necessarily translate to making a good child abuse investigator.

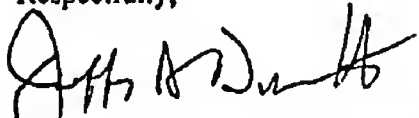
My role as a Lieutenant is to ensure the proper role for my personnel so that they can perform to their maximum potential and to address Department needs. The above identified cases clearly set forth deficiencies in performance that lead me to believe that the child abuse unit is not the proper assignment for this deputy sheriff.

Given the great number of child abuse reports received by the child abuse unit, it is imperative that a change be made immediately so as to ensure that no cases of reported abuse slip through the cracks. This reassignment is being done solely to address deficient performance within the child abuse unit, and not to punish the deputy for any deficiencies in performance or policy violations.

Supporting documentation

Due to the sensitive nature of these supporting materials, the protections afforded victims, and the ongoing nature of some of the investigations, the reports highlighted in this memorandum are not being attached to this report. They are available for review at the Child Abuse Unit.

Respectfully,



Jeffrey S. Duckworth, Lieutenant

JSD/jsd

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Background for 3.36 Appeal
July 14, 2014
Page 5 of 5

Endorsements:



William Donahue, Captain
Central Investigations Division

7-14-14

Date

Comments: _____



Anthony Ray, Captain
Personnel Unit

7-15-14

Date

Comments: _____

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TO _____



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

July 15, 2014

Deputy Mark Karo
C/O Fern M. Steiner, Esq.

Dear Deputy Karo:

RE: San Diego Sheriff's Department Policy & Procedures Section 3.36

On July 8, 2014 you provided me with a written request for an administrative review of your transfer out of the Child Abuse Unit, effective July 11, 2014. The San Diego Sheriff's Department Policy and Procedures section 3.36, "Appeal Procedure for Alleged Punitive Reassignment" directs you be provided a "written report" containing the basis for your reassignment. This letter and the attached documents constitute that report.

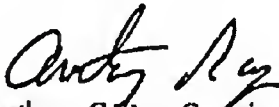
The Law Enforcement Services Bureau (LESB) directed Personnel to administratively reassign you based on performance deficiencies within the Child Abuse Unit following an internal departmental audit (as indicated in the attached memorandum from Lt. Duckworth). Several of your investigative techniques fall below the standard expected by the Law Enforcement Command.

This reassignment is being done solely to address deficient performance within the Child Abuse Unit, and not to punish you for any deficiencies in performance or any policy violations.

Child abuse cases that are not thoroughly investigated create a danger to the community, are detrimental to the integrity and efficiency of the Department, and pose a serious liability to the Sheriff and County. It is for these reasons that the operational needs of the Department necessitate your reassignment.

According to Sheriff's Policy 3.36, you have five (5) working days from the receipt of this letter to provide me a written report detailing your objections to this administrative assignment.

WILLIAM D. GORE, SHERIFF


Anthony C. Ray, Captain
Sheriff's Personnel division

ACR

cc: Kristin Bentic
Lt. Todd Richardson
Cmdr. Michael Barnett

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San Diego
El Centro
Fresno
Email

July 21, 2014

Sent Via E-Mail Anthony.Ray@sdssheriff.org

Captain Anthony C. Ray
Sheriff's Personnel Division
San Diego County Sheriff's Department
Post Office Box 939062
San Diego, CA 92193-9062

Re: Deputy Mark Karo – Section 3.36 Appeal

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TO _____

Dear Captain Ray:

This report is written on behalf of Deputy Karo objecting to the administrative reassignment. In making this report, Deputy Karo has been limited by the fact that he has been locked out of the ability to review the cited reports to be able to fully respond to statements in the written report by the Department.

While it is asserted in the Department's report that "this reassignment is being done solely to address deficient performance within the Child Abuse Unit, and not to punish you for any deficiencies in performance or any policy violations," this reassignment is clearly punitive and clearly by its own words is punishing Deputy Karo for deficiencies in his performance. The reassignment has resulted Deputy Karo's removal from a specialized position that has a premium attached to it. The reassignment is being done to address alleged deficient performance and is therefore clearly disciplinary in nature.

Further, there is a concern that this reassignment is retaliatory for a June 18, 2014 grievance and June 20, 2014 Internal Affairs complaint filed by Deputy Karo alleging a hostile work environment including a physical attack by [REDACTED]. On June 20, 2014 Deputy Karo received the response from Lieutenant Duckworth to his grievance. That June 20th response was the first time there was any mention to Deputy Karo of "performance issues." Deputy Karo continued to be assigned cases from June 20 until July 7, 2014. The grievance was referred to Internal Affairs on June 26, 2014 by Human Resources. The original Internal Affairs complaint concerning the physical attack by [REDACTED] on June 17th and the grievance that has been referred to Internal Affairs are still pending.

While Deputy Karo disagrees that his performance is deficient, there are many ways far more appropriate to deal with alleged deficient performance than summary removal from the assignment. Deputy Karo has been in the Child Abuse Unit since May 2, 2013. He has been in the Department since March 17, 2006. During his time in the Child Abuse Unit various Sergeants and Lieutenants have supervised him. One method that is appropriate to deal with

performance deficiencies is remedial training, which is the most obvious way to remedy a performance deficiency. Deputy Karo was provided no formal training as a detective in the Child Abuse Unit. Deputy Karo did not have the basic required classes for all detectives. He did not go to the basic investigations course, interview and interrogations course or the sexual assault course. There also required courses per the child abuse manual that he has not been sent to attend. No specific training was given as to how to deal with the cases and how to write up the reports. While Deputy Karo had some general training, he requested to attend specific trainings for the Child Abuse Unit position, those requests were denied because the trainings were out of county. Deputy Karo was told have any questions, ask someone. He did.

Performance issues should be handled by putting the deputy on notice that their performance is deficient prior to any reassignment. In this case, no notice was given - no warnings, no written reprimands, no performance improvement plan, and in fact the last evaluation, signed by all parties on April 2, 2014, was that he met expectations. He met expectations in "diligence," "evidence collection," "investigative skills," and every other item on the check list. The written narrative stated that "Karo is a competent detective." The written narrative lists high profile cases. There is no mention of any performance issues or deficiencies. This evaluation was rated by [REDACTED] and reviewed by Lieutenant Duckworth. If in fact Deputy Karo had serious enough performance deficiencies to warrant his summary removal from the Unit in June 2014 with no opportunity to remediate, this evaluation should have documented the issues.

No District Attorney, social worker, forensic interviewer or any other medical or mental care provider connected with the Child Abuse Unit have complained about Deputy Karo. Deputy Karo will put on witnesses to attest to his work performance. Deputy Karo's cases have not been rejected for prosecution by the District Attorney. His investigations have resulted in convictions, none of which have been overturned. All reports are reviewed by Sergeant and if there is a deficiency or error, the report is to be returned to the deputy for correction. Various Sergeants reviewed Deputy Karo's reports during his time in the Unit. One case was returned for more investigation which is noted in the report and addressed below.

Remedial training, warnings, performance improvement plans, documentation in evaluation of performance deficiencies are to put the deputy on notice that there is a performance issue that needs to be addressed and if not corrected further action such as a warning, suspension, reassignment will occur. None of this happened in this case. The first notice Deputy Karo had of performance issues was when he was given the grievance response by Lieutenant Duckworth. Deputy Karo asked Lieutenant Duckworth what my performance issues were and he said my sergeant would notify me. Deputy Karo then asked [REDACTED] multiple times over the next couple of weeks and he said he did not know. Deputy Karo even expressed to [REDACTED] that since he was still being assigned cases and not told what his performance issues were that he felt that he was being set up to fail. Deputy Karo went from your performance meeting expectations in April, to your performance is deficient and you must be removed from the assignment in July. This process does not provide industrial due process to Deputy Karo.

The following is a response by Deputy Karo to the list of general deficiencies. Deputy Karo was not advised of these deficiencies by his supervisors:

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LA 1
TO _____

Improper documentation of facts.

No training was ever given citing a specific way that facts should be documented. Ways facts are documented can vary greatly from detective to detective. No two investigators conduct or document investigations in the exact same manner. I was not notified of this issue. Reports were not returned for this reason.

Dates, times, location, or method of interviews (e.g. by phone, e-mail, in person) not always documented.

I believe I have always documented interview locations, methods, times, etc. I have not had reports returned to me for this reason. Until now, I have not been advised by any Sergeant or Lieutenant that this is an issue in my reports.

Ignoring partial disclosures of abuse by children by stating there was "no disclosure."

None of the cases cited in this report reflect that this occurred. Further, these reports were reviewed and were not returned to me stating that I had ignored a partial disclosure which should have been investigated.

Improper follow-up including failure to interview suspects, witnesses, and victims.

Suspects, witnesses, and victims were interviewed as deemed necessary. If there was no crime or a lack of evidence, these people were not always interviewed. If another party previously interviewed children, it is county protocol not to repeatedly interview them. No report was returned to me for this reason.

No documentation that law enforcement databases were utilized to conduct background inquiries on suspects, witnesses, and victims.

When background checks were conducted on suspects it was noted in my reports. Background checks are not typically done on victims and witnesses. No report was returned to me for this reason.

Relying too much on Child Welfare Services interviews rather than conducting an independent investigation and interviews when appropriate.

There has been no training on this issue. I was told to rely on, and I did rely on, other detectives for on the job training and assistance. Other detectives in the unit advised me when I first started that if CWS closes a case, we close it on our end. Supervisors, when assigned a seemingly weak case also advised me, to let CWS handle it and close it out. No report was returned to me nor was I advised that this was an issue.

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Conducting suspect interrogations and witness interviews mostly by telephone, which is not preferable in most cases.

No one spoke to me concerning this issue. My reports were not returned for this reason.

Out of all of the cases I have handled, I have done a telephone interview due to certain circumstances, perhaps a handful of times. The ICI Advanced Sexual Molestation Class teaches that telephone interviews can and should be conducted. The manual for that course (Section 1, Page 23, Slide 3) states:

INTERVIEW THE DEFENDANT

- By phone- not as threatening
- Not in custody- No MIRANDA!!!
- Supports the "I am just trying to close this thing out and need to make sure this was a "One time deal".

No preparation of search warrants when appropriate.

Search warrants were not necessary in the cases cited in this report, and have not been necessary or warranted in the majority of cases I was assigned to investigate. Cases were not returned to me for this reason. No one spoke to me concerning this issue.

Minimal follow-up and effort.

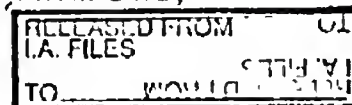
While this seems to be the opinion of individuals involved in this case, I was not notified of this deficiency by my command and reports were not returned with one exception for this reason.

As to specific cases cited below is Deputy Karo's response as best as he can without being able to have access to the case reports:

Case # [REDACTED]

I would need to review this case and the photos associated with it to fully respond. The victim stated she and her father were "just playing" during a CWS interview. The CWS narrative should also be reviewed. With a disclosure that this was accidental, there is no intent to establish a crime. Determining what is depicted in a photograph can have very different conclusions when shown to several different people. Due to the fact I believed there was insufficient evidence to show a crime was committed, a criminal history was not conducted because the father was not deemed a "suspect". The child was not forensically interviewed due to the reports from CWS, which I was taught to rely on in my cases. This report was not returned to me.

Case # [REDACTED]



The suspect in this case is not the mother's older son as stated in this report. It was her boyfriend at the time of the incident. The suspect was located and arrested on an unrelated warrant in which I responded to downtown San Diego on a Saturday to conduct an interview. The suspect requested a lawyer after the reading of his Miranda rights.

The "roommate" that was interviewed was not a roommate; it was the suspect's mother who was assisting in hiding him from law enforcement even though she has a restraining order against him. She was not forthcoming with information when she was interviewed. The

conversation barely qualified as an interview.

I attempted to contact the suspect multiple times over the course of this investigation with multiple phone numbers. All of the numbers were linked to pre-paid phones or belonged to someone else, not the actual suspect. Those calls were never returned. As noted, the suspect previously invoked his Miranda rights regarding this case.

DDA Anne Spitzberg is handling this case. I had been diligently continuing to work on this case with her up to the date of my transfer. I had a victim interview scheduled with DDA Spitzberg on July 9, 2014, the day after I was transferred. She can be contacted for more information. This report was not returned to me.

Case # [REDACTED]

The child made no disclosure at all during the forensic interview. The child also did not say that his mother told him not to disclose. No sibling made a disclosure. The only disclosure was by the mother who said she was touched once by a step-dad when she was little. This case was not returned to me.

Case # [REDACTED]

The CWS case log should be reviewed in this case. The case worker was adamant that this injury was accidental in nature and that a crime was not committed. After the case was returned to me, I scheduled a forensic exam for Friday July 11 with [REDACTED] at Chadwick Children's Center. I was transferred prior to this appointment. The results of Detective Sossaman's investigation after I was transferred are irrelevant to my performance given that I would have discovered the same information had I attended the scheduled forensic interview and continued my investigation of the case.

Deputy Karo recognizes that the cases investigated by the Child Abuse Unit are serious and that a failure to properly investigate can result in further victimization and abuse of children. Deputy Karo disputes that his performance was deficient and therefore he should not be reassigned. But if one assumes that there were performance issues, summary reassignment is punitive and not conducive to developing deputies to be the best performers they can be. An appropriate response to performance deficiencies is to first and most important put the deputy on notice that their performance is deficient which did not occur. In fact, reviewing Deputy Karo's recent evaluation there would be no reason for him to know he was deficient in his performance. Once notice is given, remedial training or specific mentoring should be provided and if performance does not improve, the deficiencies and lack of improvement should be documented with deputy prior to the drastic step of reassignment. Deputy Karo believes that given training, support and actual meaningful feedback, that he will be a successful child abuse investigator or investigator in another investigative area of the Department. The Department should not simply conclude as it has done in this case that a deputy does not have the skills, motivation, desire and expertise necessary to be a successful child abuse investigator without giving that Deputy the opportunity with the proper support and training to be that person. The Department should foster performance, not summarily fail deputies.

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TO _____

Captain Anthony C. Ray

July 21, 2014

Page 6

Please contact me if you have any questions.

Sincerely,

SMITH, STEINER, VANDERPOOL & WAX, APC



FERN M. STEINER

cc: Deputy Karo

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TO _____

COUNTY OF SAN DIEGO

GRIEVANCE FORM

The purpose of the grievance procedure is to provide a just and equitable method for the resolution of grievances as quickly as possible without discrimination, coercion, restraint or reprisal against any employee or management representative who may be involved in a grievance or its resolution. Before filling out this form, consult the grievance procedure provisions applicable to your bargaining unit regarding time limits and other requirements.

I verbally notified my supervisor of my complaint and the remedy sought on 6/17/14

(date)

MARK A. KARD

Employee's Name (print)

WAK3

Employee's Signature

Work Phone: [REDACTED]

Department: SHERIFF

Division: CHILD ABUSE

Classification: DEPUTY SHERIFF

Date delivered to supervisor: 6/18/14

Representative: _____
(if any)

Bargaining Unit: DS

DESCRIPTION OF GRIEVANCE:

A. What happened:

PLEASE SEE ATTACHED NARRATIVE

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TO _____

B. When did it occur, or when did you find out: 6/17/14
(date)

C. Was a specific section of the Memorandum of Agreement violated; if so, what section?

WORKPLACE VIOLENCE

D. Remedy sought:

REMOVAL OF EMPLOYEE CAUSING HOSTILE WORK ENVIRONMENT.

Date received by supervisor: 6/18/14

Supervisor's written response:

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TO _____

Supervisor's signature: [Signature]

Date delivered to employee: _____

Date received by employee: _____

I am forwarding this grievance to the next step.

Employee's signature _____

Date delivered to
Middle Management: _____

Representative's signature (if any) _____

Grievance delivered to: _____

Signature: _____

(over)

Date received by Middle Management: _____

Middle Manager's written response:

Middle Manager's signature: _____

Date delivered to employee: _____

Date received by employee: _____

I am forwarding this grievance to the next step:

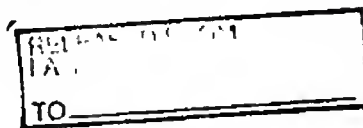
Date delivered to
Department Head: _____

Grievance delivered to: _____

Signature: _____

Employee's signature _____

Representative's signature (if any) _____



(over)

Date received by Department Head: _____

Department Head's written response:

Issue not grievable. Referred
to J.A.

Quincy Smith
6/20/14

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I.A. FILES
TO _____

Department Head's signature: _____

Date delivered to employee: _____

Date received by employee: _____

NOTE TO EMPLOYEE: If you wish to pursue the grievance further, please consult the grievance procedure provisions applicable to your bargaining unit.

I wish to pursue this grievance further using the procedure for my bargaining unit.

Employee's signature _____

Date _____

June 18, 2014

I am filing a grievance citing a hostile work environment with the County of San Diego and the San Diego County Sheriff's Department for the reasons listed below:

On 5/3/13, I was assigned to the Child Abuse Unit from the Poway Traffic Division. Within two weeks of joining the unit, it came to my attention that [REDACTED] was upset that I "didn't say hi" to him in the morning and didn't go to him for advice on my cases. The Sergeants at the time were [REDACTED] and Jason Vickery. They relayed to me that I had adjusted well and my quality of work was in line with their expectations.

Over the next several months I made an extra effort to say hi to [REDACTED] and to ask him any minor questions that I had regarding child abuse cases. As [REDACTED] and I talked further he began complaining about some of the other detectives in the unit, specifically [REDACTED] and [REDACTED]. [REDACTED] began asking me if I would be interested in joining forces with him and going to the lieutenant about [REDACTED] and [REDACTED] quality of work. I did not specifically give [REDACTED] an answer to this because it placed me in an uncomfortable position.

Over the next several months [REDACTED] repeatedly brought this up to me and also let me know he was reading their cases and documenting anything that he believed was sub-standard. [REDACTED] let me know that he was documenting conversations he had with co-workers and that he was taking photos of the white board that shows where the detectives are at any given time of the day. [REDACTED] was concerned with [REDACTED] and [REDACTED] leaving early.

I was notified by Detective Matthew Mays and Detective Rick Castro that [REDACTED] had also approached them, trying to get them to join forces with him for a presentation to the lieutenant. Detectives Mays and Castro both declined. [REDACTED] has also approached myself, Detective Castro, and Detective Mays in a setting outside of work, where he again tried to convince us that we should go against [REDACTED] and [REDACTED]. On this same occasion, [REDACTED] talked about a binder of evidence that he was going to deliver to Sheriff Gore.

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██████████ has talked to me about getting nowhere with previous and current supervisors including ██████████, Sgt. Vickery, ██████████, and ██████████. ██████████ advised me he was going to approach the newly assigned Lieutenant Duckworth with his "report".

During my time in the child abuse unit I have put together several team building/training events for the unit. ██████████ has expressed his displeasure in this and the fact that he was not named the training coordinator for the unit.

Several detectives worked together at the ERAT command post during the wildfires. Shortly after, I was approached by Detective Ramon Villa who told me ██████████ had been talking to him about the poor work quality of some of the detectives in our unit. ██████████ specifically stated that people who worked traffic should not be allowed to work child abuse.

On 6/12/14, in the afternoon, I partially overheard a conversation between Detective Dinger and ██████████. From what I gathered, Detective Dinger was joking with ██████████ about how neat his desk is and that everything is in perfect order. I did not think anything of this conversation at that time.

On 6/13/14, I heard that ██████████ had delivered a "report" to Lieutenant Duckworth. While speaking casually off the topic with ██████████ at his desk, I noticed a notepad with the names Karo, ██████████ and ██████████ that said "check cases". I asked ██████████ about this and he told me he was unable to speak about it upon order of the lieutenant.

On 6/16/14, which was my regular day off, I received a call from Detective Meleen. Detective Meleen told me ██████████ had just left his cubicle and he was asking about my friendship with Deputy Meleen. ██████████ proceeded to tell Detective Meleen that he was investigating three detectives in the child abuse unit and that since he knew Detective Meleen and I were friends, he wanted to talk to him about it. ██████████ was afraid that I was going to be upset about his "report", leading Detective Meleen to believe that I was one of the detectives he was "investigating". ██████████ also talked to Detective Meleen about transferring to child abuse because "if he had it his way, there would be three openings soon." Detective Meleen informed me that ██████████ was convinced that I put Detective Dinger up to talking to him about having "OCD", and that he was going to confront me the next day.

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I.A. FILES
TO _____

On the evening of 6/16/14, after my phone conversation with Detective Meleen, I contacted [REDACTED] and advised him of this conversation and the fact that I believed [REDACTED] behavior was escalating.

On 6/17/14, at approximately 0945 hours, I was sitting at my desk typing a child abuse report. I had ipod ear buds in, which are not over the ear headphones. As I was typing I was smacked on the back of the left shoulder by [REDACTED]. I looked over my left shoulder and [REDACTED] ask in an angry voice "Do you have something to say to me?!" I responded "No." [REDACTED] said, "Then you better not be fucking talking shit about me to Dinger". My response was, "I haven't said anything about you to Dinger." [REDACTED] said "You're a fucking liar." [REDACTED] left my cubicle and I immediately got up to notify [REDACTED]. [REDACTED] cubicle is directly next to mine. As I came to [REDACTED] cubicle I again said "I didn't say anything to Dinger." [REDACTED] walked up to me, within six inches of my face and placed his finger on my chest saying, "You better not be fucking talking shit and lying to me." At this time, I immediately went to [REDACTED] and told him what happened. I told [REDACTED] this activity had to stop and I was not willing to deal with this. [REDACTED] immediately notified Lieutenant Duckworth. Lieutenant Duckworth asked that [REDACTED], Sgt. Ting, I, and [REDACTED] join him in the conference room. As we were walking in the conference room [REDACTED] asked [REDACTED] to join us and he said "No." I will only speak with the lieutenant." When told the lieutenant would be present [REDACTED] agreed to go to the conference room. At the door of the conference room, [REDACTED] turned to [REDACTED] and said "And don't think I don't know what you're up to Robert!"

While in the conference room we were reminded by Lieutenant Duckworth that we are not in high school and we needed to act professional and keep up on our work because the ultimate goal of our unit is the safety of the children. I explained what happened with [REDACTED] and Lieutenant Duckworth asked [REDACTED] if this was true. [REDACTED] stated he "tapped" me on the shoulder because I had headphones on and denied touching my chest with his finger. I told [REDACTED] he should not be touching me at all and reminded everyone that I was sitting at my own desk typing a report when this happened. [REDACTED] again accused me of "talking shit" to Detective Dinger. I brought up the conversation I had the prior day with Detective Meleen in which [REDACTED] stated that Detective Meleen was actually trashing me, talking about my poor work quality from previous assignments.

At the conclusion of this meeting I felt that this issue was not resolved. I had been sitting at my own desk, working on my own reports when I was confronted and touched by [REDACTED]. This is not only hostile but it is illegal. I felt like I was being admonished during this meeting and the end result was to return to our desks and get to work. I sit right next to [REDACTED], which is unsettling. When I left this meeting I told [REDACTED] I needed a few minutes because I was so upset I was shaking.

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I.A. FILES

I believe that [REDACTED] is creating a hostile work environment and it is not something I should be expected to tolerate. I believe that [REDACTED] actions have become increasingly erratic and that his hostile behavior is progressing; so much so, that I have trouble even being in the office and concentrating on my job. I believe [REDACTED] should be investigated for putting his hands on me which is an act of workplace violence. At this point, I do not feel I am being offered a safe place to continue business while [REDACTED] is in the building. He is attacking my work ethic, character, and integrity. I believe that Sheriff's Policy and Procedures have been violated as well as state law in this case.

Respectfully,

Mark A. Karo

Attachments:

Documentation from Detective Ramon Villa

Documentation from Detective Aaron Meleen

Documentation from Detective Timothy Dinger

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I.A. FILES

TO _____

To: Mark Karo

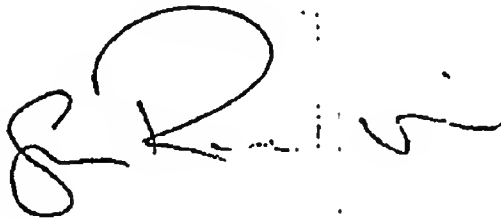
From: J. Ramon Villa

On June 17, 2014 between the hours of 0930 to 1030 hours, while working on the second floor of Ridgehaven I witnessed the following:

I was working in my cubical which is connected next to [REDACTED] cubical. I was asked by [REDACTED] to come to his cubical and exchange my old camera for a new one.

Just before I walked over to [REDACTED], I noticed [REDACTED] walk into Mark Karo's cubical. I was unable to see or hear their conversation. I then saw Karo exit his cubical and walked over to [REDACTED] who was now in his cubical. From a distance Karo told [REDACTED] not to talk to him.

I then walked away and did not see or hear anything else that occurred between Mark Karo and [REDACTED]. While with [REDACTED], Mark Karo walked over and informed [REDACTED] of the incident that had just occurred between him and [REDACTED].



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I.A. FILES

TO _____

6/18/14

To: Mark Karo

From Aaron Meleen

On 6/16/14 I was sitting at my desk when I was approached by [REDACTED]. [REDACTED] sat down in my cubical and asked if I had a second to talk. [REDACTED] asked me how long I have known Deputy Mark Karo and I told [REDACTED] that Karo and I started working together in San Marcos in October 2008 and we continued working together in Poway Traffic until Karo's transfer to CAU in 2013. [REDACTED] asked me what type of investigations Karo conducted in Poway, which I thought was weird. I asked [REDACTED] where he was going with this and he mentioned that he "delivered a report to the lieutenant regarding issues in the unit." [REDACTED] went on to tell me that he thought I had what it takes to work CAU cases and that if he has it his way "there will be 3 openings in CAU shortly." I asked [REDACTED] what he meant and he stated that he had been investigating 3 deputies in his unit and their lack of caring about victims and their lack of investigations into CAU cases. [REDACTED] went on to say that he had given a report to the lieutenant and the report went to the commander level also. [REDACTED] wanted to give me a heads up about the investigation because he knows that Karo and I are friends not only at work but outside of work also and that Karo "would probably blow up." I confirmed with [REDACTED] that Karo and I are indeed friends and that there is not much that is not shared between him and me. [REDACTED] again asked me about how Karo handled investigations in Poway and I told him that Karo was probably the best beat partner I have had while on the department and that we worked well together to get our jobs done. [REDACTED] also made a comment about an incident he had with Deputy Tim Dinger. [REDACTED] stated that Dinger gave him a hard time and he "knew Mark (Karo) but him (Dinger) up to harassing him ([REDACTED]) [REDACTED] also stated "I am going to confront Mark (Karo) tomorrow and tell him that if he has something to say he better say it to my ([REDACTED]) face."

Later that evening, I called Karo while I was on my way home from work to find out what was going on and to fill him in on my conversation with [REDACTED]

On 6/17/14 it was brought to my attention by Karo that there was an incident in the Child Abuse Unit which brought Sheriff's [REDACTED] [REDACTED] and Ting, Sheriff's Lieutenant Duckworth, and [REDACTED] [REDACTED] and Mark Karo into the conference room. I was later told by Karo that during the meeting in the conference room, [REDACTED] made some sort of statement about the conversation he ([REDACTED]) had with me on 6/16/14 in my cubical. I was told that [REDACTED] stated my conversation with him on 6/16/14 was something to the effect of discussing Karo's work ethic while he (Karo) and I were partners in the Traffic Unit in Poway. More specifically, I was told that [REDACTED] stated I had said that while working with Karo on previous assignments, his (Karo's) work ethic was substandard and his investigations were shotty at best. This statement is an absolute lie and I have never had such a conversation with [REDACTED]. While talking with Karo, I told him that the only half-way negative conversation I ever had with [REDACTED] about Karo was Karo making a joke about SAU being the junior varsity and CAU being the varsity team. This has been a running joke around the unit and I have never taken an offense to it. I actually think it is rather funny.



RELEASED FROM I.A. FILES TO _____

06-18-2014

To: Mark Karo

From: Tim Dinger

On 06-12-2014 at around 1500 hours I was typing at my desk in the sexual assault/child abuse office. I went to the bathroom in the lobby area to urinate. I was standing at the urinal and I saw that someone was in the stall next to the urinal. I finished my business in the bathroom and walked back to the office. Almost immediately after I walked in the office, [REDACTED] walked in door behind me. I looked back at [REDACTED] and realized after looking at his shoes and pants, that he was the person in the stall.

I have known [REDACTED] for about 20 years and have no issues or "beefs" with him. We have always had a cordial relationship but never socialized away from work. [REDACTED] desk and cubicle is very clean and organized. When I saw [REDACTED] come in the office and realized it was him in the bathroom stall, I said something to the effect of, "[REDACTED] you don't really use public restrooms do you, you know there are germs in there right?" I made this comment as a joke and actually as kind of a back-handed compliment about his cleanliness and organization. [REDACTED] seemed shocked and angry about my comment and said something like, "What do you mean by that, why do you say that?" I said, "[REDACTED] I was joking, you know, because your desk is so clean I'm surprised you would use a public bathroom." I then told him I wouldn't joke with him anymore and walked to my cubicle.

About thirty seconds later [REDACTED] came to my cubicle and again asked me if there was a reason I made that comment. I said, "[REDACTED] I don't know what the fuck you're talking about, it was a joke." [REDACTED] then told me there was, "some stuff going on in the office" and he thought that is why I made that comment. I said, "[REDACTED] I have no idea what's going on in the office and I really don't give a fuck unless it involves me." [REDACTED] and I then had a cordial conversation about a mutual friend on the department and after a few minutes he walked back to his cubicle.

On 06-19-2014 at about 0100 hours I was at Scripps hospital in Encinitas with Detective Aaron Meleen on a call-out. Meleen told me about some type of complaint [REDACTED] had lodged with the SAU command staff earlier in the day on 06-18-2014. When I received that information at the hospital, it was the first I had heard of any issues regarding [REDACTED] and other personnel at SAU/CAU. Prior to 06-19-2014 at about 0100 hours, I had no idea there were issues with [REDACTED] and other detectives in the unit. At no time before or after that had any detectives told me to harass, bother or joke with [REDACTED] in any way.

RELEASED FROM I.A. FILES TO _____

The joke I made to [REDACTED] on 06-18-2014 was made completely in fun and had nothing to do with any other issues in the office, because at the time I was completely unaware of any issues.

A handwritten signature in black ink, appearing to read 'Tim Dinger', with a stylized flourish at the end.

Tim Dinger

RELEASED FROM
I.A. FILLS
TO _____



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

June 20, 2014

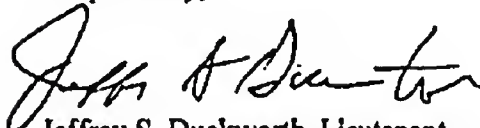
To: Mark Karo, Deputy Sheriff
Child Abuse Unit

From: Jeffrey S. Duckworth, Lieutenant
Central Investigations Division

RESPONSE TO GRIEVANCE

1. The Department has received your grievance, and you will receive a formal written response on or before the time specified in the Memorandum of Agreement between the County of San Diego and the Deputy Sheriff's Association.
2. You have been advised of your ability to make a complaint to the Internal Affairs Unit, and to have said complaint investigated.
3. The Threat Assessment Group (TAG) has been assigned to evaluate the threat of violence in the workplace. Investigators from the unit will be speaking with you shortly. This threat assessment is apart from any Internal Affairs investigation.
4. At first glance, it appears you may indeed have performance issues. An assessment is ongoing. Your supervisor will make you fully aware of any issues and give you the opportunity for improvement after explaining the expectations for the Child Abuse Unit. This is a separate issue from the threat assessment and the Internal Affairs investigation.
5. I expect that you and every detective in the unit act professionally in the unit and concentrate on the mission rather than engage in rumor, innuendo, name calling, or other unprofessional behavior. The manner in which any employee conducts his or herself is part of performance.

Respectfully,


Jeffrey S. Duckworth, Lieutenant

RELEASED FROM
I.A. FILES

TO

MF 6/20/14

Karo, Mark

From: Meleen, Aaron
Sent: Wednesday, June 18, 2014 11:45 AM
To: Karo, Mark
Subject: FW: Unit Issues

Detective Aaron Meleen
Sexual Assault Unit
San Diego County Sheriff's Department
9621 Ridgehaven Court
San Diego, Ca 92123
Desk [REDACTED]
Work Cell [REDACTED]
Mail Stop 041

RELEASED FROM
I.A. FILES

TO _____

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, June 18, 2014 11:42 AM
To: Bloch, Karen; Castro, Rick; Lopez, Miguel; Reden, Victoria; Sossaman, Donnie; Villa, Ramon; Williams, Helen; Dinger, Timothy; Meleen, Aaron; Shands, Laura; Hurtado, Laura
Cc: Ting, Darwin; Duckworth, Jeff
Subject: Unit Issues

Fellow child abuse and sexual assault detectives,

Based on recent events, it is necessary for me to clarify some things. As you are all by now aware, I have made Lt. Duckworth aware of some serious issues within the Child Abuse Unit concerning three specific detectives and two sergeants (one current, one former). These issues have been ongoing for the past year and a half. They do not involve anyone other than those three detectives and [REDACTED]. I fully expected these individuals to react negatively, especially by attempting to create undue concern among other detectives in the child abuse and sexual assault units. This has in fact already occurred.

I am aware that one of the concerns among the rest of you is that there will be a negative effect on the units that will result in undue scrutinization or "Micro managing." I made it exceedingly clear in my written documentation that this was of concern to me and others who have come forward with information. I also made it clear that the remainder of detectives are hardworking and caring individuals who should not be subjected to examination because of the inappropriate conduct of the few who have chosen to shun their responsibilities, rather than making every effort to prevent children from being physically and sexually abused. I have personally discussed this very point with Lt. Duckworth. His responses have made it clear he understands the importance of ensuring there is no negative impact on the remainder of detectives in either unit.

It is important to note that this situation is unfortunately not unique. When I was assigned to the Child Abuse Unit eight years ago, the unit was in the middle of a significant Internal Affairs investigation involving a detective who essentially ignored all of his cases and allowed children to be abused repeatedly because of this. That detective was allowed to retire in lieu of termination. There were no repercussions to the remainder of detectives in the Child Abuse Unit at that

time and no micro managing occurred. Recently, a SOMU detective (technically part of the Child Abuse Unit) was investigated for essentially the same reasons and he also retired in lieu of discipline. Again, there were no repercussions or micro managing as a result. Based on the typical reaction to these events in the past, there should be no cause for concern to those who have performed their duties appropriately.

[REDACTED]
San Diego County Sheriff's Department
Child Abuse Unit
Desk: [REDACTED]
Fax: [REDACTED]

RELEASED FROM
I.A. FILES
TO _____



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

June 20, 2014

TO: Mark Karo, Deputy Sheriff
Family Protection Detail

FROM: Denise C. Smith, Sheriff's Employee Relations Manager
Sheriff's Employee Relations Division

SUBJECT: GRIEVANCE - WORKPLACE VIOLENCE

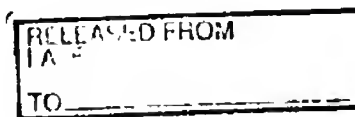
At my request, I have been provided the June 18, 2014 grievance form you submitted to your supervisor. The reason I am writing you this memo is to inform you that I have determined that the concerns you describe are not a grievable matter. The issues you raise, workplace violence, are more appropriately investigated by the Sheriff's Internal Affairs Division.

Lieutenant Duckworth will submit a complaint to Sheriff's Internal Affairs to have your concerns investigated.

Sincerely,
WILLIAM D. GORE, Sheriff

Denise C. Smith, Sheriff's Employee Relations Manager
Sheriff's Labor Relations Division

C: Lieutenant Jeff Duckworth, Family Protection Detail
Lieutenant Christine Harvel, Internal Affairs Division



**SWORN (NON-SUPERVISORY) EMPLOYEE PERFORMANCE APPRAISAL REPORT
COUNTY OF SAN DIEGO – SHERIFF'S DEPARTMENT**

SECTION A – IDENTIFYING INFORMATION				FOR SHERIFF'S PERSONNEL ONLY WHEN COMPLETED, MAKE TWO COPIES (FRONT AND BACK) CHECK APPROPRIATE BOX AND DISTRIBUTE: <input type="checkbox"/> Original – OHR <input type="checkbox"/> Copy – Employee <input type="checkbox"/> Copy – Departmental File	
BUSINESS UNIT A4980	BUSINESS UNIT TITLE San Diego County Sheriff's Department	EMPLOYEE ID 035194			
JOB CODE 5746	JOB TITLE Deputy Sheriff	EMPLOYEE NAME Karo, Mark A.	JUL 29 2015 4:13		
REASON FOR RATING <input type="checkbox"/> PROBATION <input type="checkbox"/> FINAL PROBATION <input checked="" type="checkbox"/> ANNUAL <input type="checkbox"/> SUPPLEMENTAL			Annual Review FROM 4/13/2014 TO 4/12/2015		
STATE REASON AS SEPARATION, PROMOTION, DEMOTION, TRANSFER SUPPLEMENTARY, ETC.					
SECTION B – ITEMIZED CHECK LIST				SECTION C – OVERALL RATING	
EMPLOYEE'S IMMEDIATE SUPERVISOR SHOULD CHECK EACH ITEM IN THE APPROPRIATE COLUMN. REPORT MUST HAVE ALL REQUIRED SIGNATURES BEFORE SUBMITTING. ANY CHANGES TO THE REPORT AFTER THE EMPLOYEE'S SIGNATURE REQUIRES INITIALING BY THE EMPLOYEE AND PERSON MAKING THE CHANGES.			Does employee meet expectations? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
			A RATING OF "NO" IN ANY COMPETENCY OR AS AN OVERALL RATING REQUIRES ATTACHED WRITTEN DOCUMENTATION.		
			GENERAL COMMENTS "THE RATINGS IN THIS EMPLOYEE PERFORMANCE REPORT MAY NOT REFLECT ANY INCIDENT THAT MAY BE CURRENTLY UNDER INVESTIGATION" See attached.		
1. JOB KNOWLEDGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;"> RELEASED FROM I.A. FILES TO: _____ </div>	
2. JUDGMENT/DECISION MAKING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3. ENFORCEMENT TACTICS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
4. EMERGENCY RESPONSE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5. LAW ENFORCEMENT & CORRECTIONS PROCEDURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
6. PROBLEM SOLVING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7. SAFETY PRACTICES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8. ADAPTABILITY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
9. DILIGENCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
10. PRISONER CONTROL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
11. COMMUNICATION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
12. WRITTEN EXPRESSION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
13. EVIDENCE COLLECTION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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16. INVESTIGATIVE SKILLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
17. COMMUNITY & CUSTOMER RELATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
18. PUNCTUALITY & ATTENDANCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
ADDITIONAL JOB - SPECIFIC COMPETENCIES IF NEEDED				SECTION D – SIGNATURES I HAVE DISCUSSED THIS REPORT WITH MY SUPERVISOR	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	EMPLOYEE'S SIGNATURE <u>MAK</u> DATE <u>7/21/15</u>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	RATED BY: <u>[Signature]</u> TITLE <u>Sergeant</u> DATE <u>7/21/15</u>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PRINT NAME <u>R. Tarr</u>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	REVIEWED BY: <u>[Signature]</u> TITLE <u>LT</u> DATE <u>07/27/15</u>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PRINT NAME <u>[Signature]</u>	
				APPEALS SECTION I REQUEST AN APPOINTMENT TO DISCUSS THIS REPORT WITH THE APPEAL OFFICER DESIGNATED BY MY APPOINTING AUTHORITY	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	EMPLOYEE'S SIGNATURE _____ DATE _____	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PRINT NAME _____	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	APPEAL REVIEW COMPLETED	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	APPEAL OFFICER'S SIGNATURE _____ DATE _____	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	PRINT NAME _____	

Deputy M. Karo Evaluation
Rating Period April 13, 2014 to April 12, 2015

This evaluation covers rating period April 13, 2014 to April 12, 2015. Deputy Karo transferred to the Rancho San Diego Area Detective Unit in August 2014. Prior to transferring to RSD, Deputy Karo was assigned to the Child Abuse Unit. Sergeant Hampton supervised Deputy Karo during this rating period. I reviewed Deputy Karo's station file and received input from Sergeant Hampton in preparation for this evaluation.

Deputy Karo has been assigned as an area detective for approximately 7 months. His primary duties include conducting follow-up investigations of station generated crime and arrest reports. This includes the writing of search and arrest warrants. During the 7 months Deputy Karo was assigned to the area detective unit, he made eight arrests, completed 32 follow-up reports and investigated four missing person cases. Deputy Karo also wrote 5 Field interview reports.

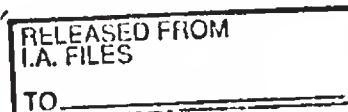
In an effort to foster positive relationships with patrol deputies and other specialized units, Deputy Karo assisted with a case that involved smuggling fraudulent credit cards from Mexico into the United States. The juvenile smuggling these fraudulent credit cards was forced to do so by her parents. Deputy Karo worked diligently with the Financial Crimes Unit to get the two suspects into custody and to locate a safe place for the child to stay. The suspects were later arrested for over 100 counts of Forged Access Cards, Conspiracy, Willful Cruelty to a Child, Forgery, and Contributing to the Delinquency of a Minor.

While assigned in the Child Abuse Unit, Deputy Karo had several cases where the suspects received lengthy prison terms up to and including life in prison. Deputy Karo was able to provide closure to the families of many victims.

Deputy Karo is intelligent, constantly demonstrates a positive attitude, and is willing to do whatever is asked of him. Deputy Karo quickly responds to late night callouts and is very responsible to his duties. Deputy Karo is a team player and is respected by his peers. Deputy Karo is a pleasure to supervise and has earned a rating of "Meets Expectations" during this evaluation period.

Training:

ICI Core Investigations Course- 80 hours
Field Evidence Technician Course- 80 hours
ILP for area detectives- 24 hours
Interview and Interrogations Course- 40 hours
Identity Theft
Wildfire Training



Goals:

Deputy Karo's short term goal is to stay in his current assignment. Deputy Karo's long term goal is promoting to sergeant.

SWORN (NON-SUPERVISORY) EMPLOYEE PERFORMANCE APPRAISAL REPORT
COUNTY OF SAN DIEGO - SHERIFF'S DEPARTMENT

SECTION A - IDENTIFYING INFORMATION				FOR SHERIFF'S PERSONNEL ONLY WHEN COMPLETED, MAKE TWO COPIES (FRONT AND BACK), CHECK APPROPRIATE BOX AND DISTRIBUTE <input type="checkbox"/> Original - DHR <input type="checkbox"/> Copy - Employee <input type="checkbox"/> Copy - Departmental File																																																																																
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REASON FOR RATING <input type="checkbox"/> INITIAL PROBATION <input type="checkbox"/> FINAL PROBATION <input type="checkbox"/> APPEAL <input checked="" type="checkbox"/> SUPPLEMENTAL			RATING PERIOD FROM: 04/13/2013 TO: 05/02/2013 Transfer STATE REASON: SEPARATION, PROMOTION, DEMOTION, TRANSFER & SUPPLEMENTARY, ETC.																																																																																	
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	MEETS EXPECTATIONS																																																																																			
	YES	NO	N/A																																																																																	
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ADDITIONAL JOB-SPECIFIC COMPETENCIES IF NEEDED _____ _____ _____			SECTION D - SIGNATURES I HAVE DISCUSSED THIS REPORT WITH MY SUPERVISOR EMPLOYEE'S SIGNATURE: <u>WAK</u> DATE: <u>5/22/13</u> RATED BY: <u>David K. Cheever</u> TITLE: <u>SGT.</u> DATE: <u>5-7-13</u> Print Name: David K. Cheever, Sergeant - 2050 REVIEWED BY: <u>Jeffrey S. Duckworth</u> TITLE: <u>LT.</u> DATE: <u>5/29/13</u> Print Name: Jeffrey S. Duckworth, Lieutenant - 1614																																																																																	
APPEALS SECTION I REQUEST AN APPOINTMENT TO DISCUSS THIS REPORT WITH THE APPEAL OFFICER DESIGNATED BY MY APPOINTING AUTHORITY EMPLOYEE'S SIGNATURE: _____ DATE: _____ Print Name: _____ APPEAL REVIEW COMPLETED APPEAL OFFICER'S SIGNATURE: _____ DATE: _____ Print Name: _____			<div style="border: 2px solid black; padding: 10px; display: inline-block;"> RELEASED FROM I.A. FILES TO: _____ DATE: _____ </div>																																																																																	

SWORN (NON-SUI VISORY) EMPLOYEE PERFORMANCE EVALUATION REPORT
COUNTY OF SAN DIEGO – SHERIFF'S DEPARTMENT

SECTION A – IDENTIFYING INFORMATION

BUSINESS UNIT A4980	BUSINESS UNIT TITLE San Diego County Sheriff's Department	EMPLOYEE ID 035194	FOR SHERIFF'S PERSONNEL ONLY WHEN COMPLETED, MAKE TWO COPIES (FRONT AND BACK), CHECK APPROPRIATE BOX AND DISTRIBUTE: <input type="checkbox"/> Original – DHR <input type="checkbox"/> Copy – Employee <input type="checkbox"/> Copy – Departmental File
JOB CODE 005746	JOB TITLE Detective	EMPLOYEE NAME Mark, Karo	APR 3 2014 PM 3:15

REASON FOR RATING				RATING PERIOD	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FROM 04/13/2013	TO 04/12/2014
<small>INIT PROBATION</small>	<small>FINAL PROBATION</small>	<small>ANNUAL</small>	<small>SUPPLEMENTAL</small>	<small>STATE REASON AS SEPARATION, PROMOTION, DEMOTION, TRANSFER, SUPPLEMENTARY, ETC.</small>	

SECTION B – ITEMIZED CHECK LIST

EMPLOYEE'S IMMEDIATE SUPERVISOR SHOULD CHECK EACH ITEM IN THE APPROPRIATE COLUMN. REPORT MUST HAVE ALL REQUIRED SIGNATURES BEFORE SUBMITTING. ANY CHANGES TO THE REPORT AFTER THE EMPLOYEE'S SIGNATURE REQUIRES INITIALING BY THE EMPLOYEE AND PERSON MAKING THE CHANGES.

MEETS EXPECTATIONS		
YES	NO	N/A

1. JOB KNOWLEDGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. JUDGMENT/DECISION MAKING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. ENFORCEMENT TACTICS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. EMERGENCY RESPONSE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. LAW ENFORCEMENT & CORRECTIONS PROCEDURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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18. PUNCTUALITY & ATTENDANCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION C – OVERALL RATING

Does employee meet expectations?

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
--	--------------------------------

A RATING OF "NO" IN ANY COMPETENCY OR AS AN OVERALL RATING REQUIRES ATTACHED WRITTEN DOCUMENTATION.

GENERAL COMMENTS

"THE RATINGS IN THIS EMPLOYEE PERFORMANCE REPORT MAY NOT REFLECT ANY INCIDENT THAT MAY BE CURRENTLY UNDER INVESTIGATION"

See Attached Narrative.

SECTION D – SIGNATURES

I HAVE DISCUSSED THIS REPORT WITH MY SUPERVISOR

EMPLOYEE'S SIGNATURE WAKP DATE 4/2/14

TITLE Sergeant DATE 4/2/2014

REVIEWED BY:

Jeffrey S. Duenkworth TITLE GT DATE 4/2/14
 PRINT NAME JEFFREY S. DUENKWORTH

APPEALS SECTION

I REQUEST AN APPOINTMENT TO DISCUSS THIS REPORT WITH THE APPEAL OFFICER DESIGNATED BY MY APPOINTING AUTHORITY

EMPLOYEE'S SIGNATURE _____ DATE _____

PRINT NAME _____

APPEAL REVIEW COMPLETED

APPEAL OFFICER'S SIGNATURE _____ DATE _____

PRINT NAME _____

ADDITIONAL JOB - SPECIFIC COMPETENCIES IF NEEDED

19. MEMBER OF E.R.A.T. TEAM	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I.A. FILES TO: _____

SWORN SUPERVISORY EMPLOYEE PERFORMANCE APPRAISAL REPORT (04/13/13 - 04/12/14)

Detective Mark Karo

Detective Mark Karo is currently assigned to the Sheriff's Child Abuse Unit and has been since May 2013. Karo provided input for this evaluation. Karo is a competent detective. He is subject to call outs and readily responds to any assignment given.

His collateral duties include the department's Emergency Response Assistance Team. He exhibits good communication skills with his detective partners and supervisors. Karo takes pride in his assignment and continually shares his knowledge and experience for the benefit of his detective partners.

During this rating period Karo has worked the following high profile cases:

- ██████████ high profile case- currently on trial.
- Life case suspect ██████████ is currently on trial.
- ██████████ case involves continuous sexual abuse of step-daughter. Currently awaiting trial.

Karo has completed the following training during this rating period:-

- 2013 Multi-Disciplinary Team Training (09-10-13)
- 2013 Physical Indications of Child Abuse (11-24-13)
- 2013 ICI Advanced Sexual Molestation Child Abuse Investigations (24 hours)
- 2014 San Diego International Conference on Child & Family Maltreatment (01-28-14)
- 2014 CPT January 2014
- 2014 Leads Online February 2014

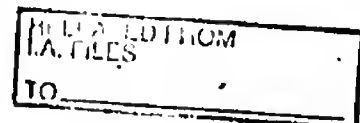
During this rating period Karo coordinated and scheduled a training session for the Family Protection Unit at the A-range. The training consisted of 4 hours at the PRISM Simulator Machine.

Karo's goals include continuing his excellent work as a Child Abuse Investigator and to gain more experience in child abuse investigations. Karo's long term goals are in 1 or 2 years promote to the rank Sergeant

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Employee initials & Date

██████████ 4/2/14
Rater initials & Date

JAS 4-2-14
Reviewer initials & Date



investigation before her supervisor questioned her, any error was harmless because the supervisor's initial inquiry about alcohol should have been adequate to put the officer on notice that she was being investigated for use of alcohol. *Hinrichs v. County of Orange* (2004, Cal App 4th Dist) 125 Cal App 4th 921, 23 Cal Rptr 3d 186, 2004 Cal App LEXIS 2308.

Because disciplinary proceedings against a police officer substantially affected the officer's fundamental vested right in his employment, the trial court was required to exercise its independent judgment on the evidence. Trial court's error in failing to apply the appropriate standard of review required the matter to be remanded to the trial court for reconsideration under the proper standard of review. *Wences v. City of Los Angeles* (2009, 2d Dist) 177 Cal App 4th 305, 89 Cal Rptr 3d 199, 2009 Cal App LEXIS 1477, review denied *Wences (Cesar) v. City of Los Angeles* (2009, Cal.) 2009 Cal. LEXIS 12525.

12. Dismissal

Motion to dismiss the employee's claim that California Highway Patrol (CHP), its staff service manager, the State Compensation Insurance Fund (SCIF), and an attorney violated the Public Safety Officers' Bill of Rights (POBR) pursuant to Gov C § 3301 and Pen C § 830.2 on the basis that the employee was not protected under POBR was granted with prejudice because nowhere in the complaint did the employee allege that her primary duty, as a peace officer, was to enforce laws

pertaining to the operation of vehicles or police services, and although the employee alleged that she was covered under POBR, a plain reading of the statute prohibited the court from finding that the alleged facts could have been reasonably read to establish the employee met the definition of peace officer under § 830.2(a). *Vierria v. Cal. Highway Patrol* (2009, ED Cal) 644 F Supp 2d 1219, 2009 US Dist LEXIS 54477.

13. Reversal

Police officer, was entitled to a reversal of a written reprimand for use of alcohol because she was not found to be under the influence of alcohol and received no notice that she was charged with a general standard of conduct violation. *Hinrichs v. County of Orange* (2004, Cal App 4th Dist) 125 Cal App 4th 921, 23 Cal Rptr 3d 186, 2004 Cal App LEXIS 2308.

14. Mandamus

Former public safety officer did not establish that he was entitled to mandamus relief to force disclosure under Gov C § 3303(g), which did not afford disclosure rights akin to statutory discovery rights in criminal cases. The more reasonable interpretation is that the minimal rights of disclosure included in § 3303(g) were intended to prevent grossly abusive interrogation tactics and to protect an officer's personnel file. *Gilbert v. City of Sunnyvale* (2005, Cal App 6th Dist) 130 Cal App 4th 1264, 31 Cal Rptr 3d 297, 2005 Cal App LEXIS 1063.

§ 3304. Protection of procedural rights

(a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefor and an opportunity for administrative appeal.

For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons."

Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d)(1) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission,

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or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except as provided in paragraph (2). The public agency shall not be required to impose the discipline within that one-year period.

(2)(A) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(B) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(C) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(D) If the investigation involves more than one employee and requires a reasonable extension.

(E) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(F) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(G) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(H) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(e) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(f) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.

(g) Notwithstanding the one-year time period specified in subdivision (d), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (f) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

Added Stats 1976 ch 465 § 1. Amended Stats 1997 ch 148 § 1 (AB 1436); Stats 1998 ch 786 § 1 (SB 2215); Stats 2004 ch 405 § 2 (SB 1796); Stats 2009 ch 494 § 1 (AB 955), effective January 1, 2010.

Amendments:

1997 Amendment: Added (1) "or her" after "officially charge him" in the second paragraph of subd (a); and (2) subds (c)-(g).

1998 Amendment: (1) Added "against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency" in subd (b); (2) added subd (c); (3) redesignated former subd (c) to be subd (d); (4) substituted "subdivision (g)" for "sub-

division (f)" in subd (d); and (5) redesignated former subds (d)-(g) to be subds (e)-(h).

2004 Amendment: (1) Substituted "subdivision (d)" for "subdivision (c)" in subd (g); and (2) substituted "subdivision (f)" for "subdivision (e)" in subd (h).

2009 Amendment: (1) Added subdivision designation (d)(1); (2) amended subd (d)(1) by (a) substituting "as provided in paragraph (2)." for "in any of the following circumstances;" in the third sen-

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Court of Appeal, Second District, Division 3, California.

**Jason PEDRO, Plaintiff and Respondent, v. CITY OF LOS ANGELES et al.,
Defendants and Appellants.****B249005****Decided: August 25, 2014**

Michael N. Feuer, City Attorney, Carlos De La Guerra, Managing Assistant City Attorney, Wayne H. Song, Supervising Deputy City Attorney, and Bruce Monroe, Deputy City Attorney, for Defendants and Appellants. Silver, Hadden, Silver, Wexler & Levine, Susan Silver and Jacob A. Kalinski for Plaintiff and Respondent. The City of Los Angeles and Charles Beck (collectively the City) appeal a judgment granting a peremptory writ of mandate in favor of Jason Pedro, a police officer. Beck, as chief of police, charged Pedro with four counts of misconduct involving the use of a city police vehicle for personal business on two occasions, making a discourteous statement to a member of the public, and making a misleading statement to a supervisor conducting an official investigation. A Board of Rights found that three counts were barred by the statute of limitations. Beck expressed his disagreement, and the board later found Pedro guilty on all four counts and recommended a 22-day suspension without pay. Beck approved the recommendation. Pedro filed a petition for writ of administrative mandamus challenging the decision.

The trial court found in favor of Pedro on each count. It concluded that Beck had improperly directed the Board of Rights to find that the counts were not barred by the statute of limitations. Exercising its independent judgment, the court found that counts one and four were barred by the statute of limitations, and that counts two and three were not barred. It also concluded that Pedro was not informed that he was being investigated for misconduct prior to his interrogation, as required by law. The court therefore suppressed evidence of Pedro's statement to the supervisor and set aside the guilty finding on count four. Although the court found that counts two and three were not barred by the statute of limitations, it determined that the Board of Rights had found that those counts were barred. The court concluded that the board's finding was final and binding because the City failed to file a writ petition challenging the decision.

The City challenges the trial court's decision on counts two, three, and four. It contends those counts are not barred by the statute of limitations, Beck properly made the final administrative decision as to findings, and the court erred by suppressing evidence of Pedro's statement to the supervisor.

We conclude that the Board of Rights failed to proceed in the manner required by law by deferring to Beck's determination on the statute of limitations rather than making a decision consistent with its own findings, and its findings do not support its decision. We also conclude that ignorance of the accused officer's identity does not postpone the commencement of the one-year limitations period under Government Code section 3304, subdivision (d)(1), so counts two and three are barred by the statute of limitations. We conclude further that the discovery rule applies, and the trial court properly determined that count four is time-barred. We therefore will affirm the judgment granting a peremptory writ of mandate on all four counts.

FACTUAL AND PROCEDURAL BACKGROUND

1. Factual Background

Pedro drove a female friend, a minor, to a medical clinic in an unmarked police car on November 9, 2009, while he was on duty and in uniform. Francis O'Brien attempted to distribute anti-abortion literature to Pedro upon his arrival at the clinic, but Pedro declined without speaking to O'Brien. O'Brien called the police department

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to complain that an officer was conducting personal business while on duty, and identified the police car by license number. As a result of the call, the police station watch commander directed Sergeant Rodney Peacock to investigate the matter. Peacock drove to the clinic.

Pedro was walking from the clinic back to his car when he saw Peacock, whom he knew. Pedro greeted Peacock, and the two exchanged pleasantries. Peacock asked Pedro what he was doing there. Pedro responded that he had dropped someone off at the clinic. Pedro then asked Peacock what he was doing there.

Peacock responded that he was visiting a store nearby. Peacock then asked Pedro whether the person he had dropped off was a victim. According to Pedro, he did not directly respond to the query because he thought it was just small talk. But Peacock wrote in his report that Pedro stated that he was "working the Gang Unit in Detectives and was conducting a Follow up with a victim." Peacock informed the watch commander, and the watch commander called O'Brien to inform him of their findings.

Pedro drove the same minor to the same medical clinic in an unmarked police car on November 30, 2009, while he was on duty and in uniform. O'Brien approached the passenger side and offered them anti-abortion literature. According to Pedro, he declined the literature and asked O'Brien to leave, but O'Brien persisted. Pedro then told him, "Get the hell back," and O'Brien backed away from the car. According to O'Brien, Pedro did not speak or respond until he rolled down the passenger window and stated forcefully, "Get the fuck away from the car," and then repeated that same statement.

O'Brien sent a letter to the chief of police dated December 1, 2009, stating his suspicions that an officer driving an unmarked police car was conducting personal business on the job on November 9 and 30, 2009. The letter stated the license number of the car. The letter also stated that on the latter occasion the driver twice stated to O'Brien, "Get the f_ away from the car." The office of the chief of police received the letter on December 3, 2009. A lieutenant forwarded the letter to Hollenbeck Area on December 10, 2009, to investigate "possible officer misconduct." The task was assigned to a lieutenant in Hollenbeck Area, where Pedro was assigned, on December 16, 2009.

An administrative complaint was served on Pedro on December 21, 2010, charging him with four counts of misconduct: (1) using a city vehicle inappropriately to transport a member of the public in order to conduct personal business while on duty, on November 9, 2009; (2) using a city vehicle inappropriately to transport a member of the public in order to conduct personal business while on duty, on November 30, 2009; (3) making a discourteous statement to O'Brien while on duty, on November 30, 2009; and (4) making a misleading statement while on duty to a police department supervisor conducting an official investigation, on November 9, 2009. Pedro was temporarily relieved from duty on December 21, 2010, after approximately 15 years of service as a police officer for the city.

2. Board of Rights Hearing and Decision

A Board of Rights hearing commenced on April 29, 2011. Pedro pled "guilty, but with an explanation" to counts one and two. He pled "not guilty" to counts three and four. The board heard testimony by O'Brien and Peacock before Pedro moved to dismiss the charges.

Pedro moved to dismiss all counts based on the one-year statute of limitations of Government Code section 3304, subdivision (d)(1). The board consulted with an attorney from the city attorney's office and concluded that the first three counts were barred by the statute of limitations. The board chairperson stated that the board therefore would find Pedro "not guilty" on the first three counts. He stated that the board was uncertain as to whether the fourth count was barred by the statute of limitations and would hear further testimony on the fourth count. Another board member then asked whether the finding on count three would be "not guilty or out of statute." The chairperson responded, "I guess they're all out of statute then, whatever the classification for that is."

The City moved for reconsideration of the ruling when the Board of Rights reconvened on May 6, 2011. The advocate for the police department stated that he had consulted with an attorney from the city attorney's office who concluded that the three counts were not barred by the statute of limitations. The City filed a written motion for reconsideration. The board considered the motion, consulted with counsel, and, on May 12, 2011, concluded again that counts one, two, and three were barred by the statute of limitations. The board also concluded that count four was not time-barred, and proceeded to hear further testimony.

The advocate for the police department then quoted section 260.60 of the police department's Board of Rights Manual (12th ed.2005), which states:

"When a Board of Rights determines through the examination of evidence that one or more of the charges is outside the applicable statute of limitations period, the Board shall without delay forward to the Chief of Police a proposed amended complaint with the out-of-statute charge or charges removed. The Board shall, with the proposed amended complaint, notify the Chief of Police that the amendment is proposed because the Board has determined that the charge or charges to be removed exceed the statute of limitations, and shall request that the Chief of Police sign the amended complaint without delay. If the Board determines that all of the charges are

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outside the applicable statute of limitations the Board shall request that the Chief of Police remove the charges and close the Board."

The parties agreed to proceed with the board proceedings. The board chairperson stated that the board would be notified if and when the chief of police signed the proposed amended complaint.

An advocate for the police department reported to the Board of Rights on May 12, 2011, that he had met with the chief of police "per Board of Rights Manual section 260.60." The advocate stated:

"I briefed the C.O.P. regarding the board's position regarding statute as articulated by [board chairperson] Commander Chow and the recording provided by [Pedro's counsel] Mr. Quan. I provided the briefs submitted by the defense and the department which have been entered as exhibits. And after deliberating on the matter, the chief has affirmed his original position that all four counts are in statute and directs the board to proceed as such."

Pedro argued that the chief of police had no authority to overrule the board's decision on the running of the statute of limitations. The police department's advocate argued that the chief of police was not required to sign the proposed amended complaint and that the board's decision on the statute of limitations was only a recommendation. The board chairperson stated that the board would consider all four counts and asked whether the parties wished to call additional witnesses specifically relating to count three. The defense called an additional witness, and Pedro was recalled for further testimony before both sides rested.

The board chairperson orally announced the board's findings on May 27, 2011. The board accepted Pedro's guilty pleas on counts one and two. The chairperson stated that count three turned on the credibility of witnesses and that the board found O'Brien to be the more credible witness and concluded that Pedro had made the discourteous statement as alleged.

The board chairperson stated that count four was by far the most serious charge. The board found that Peacock's contact with Pedro was "an investigation," albeit "a preliminary investigation," and that "Peacock did a poor job of doing his preliminary investigation." It found that Pedro's account of his conversation with Peacock was not completely credible and that Pedro had knowingly misled Peacock to believe that he was conducting legitimate police business at the time, rather than personal business.

The board rejected Pedro's argument that he was entitled to notice that he was being investigated. The chairperson stated, "To require every conversation to be predicated with an admonishment that it is official or not is not practical, nor can any organization function like that." He also stated, addressing Pedro, "The fact that Sergeant Peacock did not notify you of the nature of the complaint and that he did not record his interview with you does not alter the official nature of his investigation, and his action was not a violation of the Public Safety Officers Procedural Bill of Rights Act." The chairperson stated further, "Sergeant Peacock was conducting a preliminary investigation to determine if misconduct had, in fact, occurred. And he had no obligation to tell officer Pedro the nature of the complaint at the time, and there was no requirement that he tape-record the statement made by officer Pedro at that time. He was not conducting an interrogation into a personnel complaint investigation on the date and time in question."

The chairperson also stated that the board believed that Pedro was not completely truthful in describing his platonic relationship with the minor, who apparently was 16 years old at the time of the incident, or in stating that he did not know either the nature of her visit to the clinic or that abortions were performed there.

The Board of Rights found Pedro guilty on all four accounts. The chairperson did not discuss the statute of limitations in announcing the board's findings. The board later recommended a 22-day suspension.

3. Petition for Writ of Administrative Mandamus

Pedro filed a petition for writ of administrative mandamus against the City in August 2011 challenging his suspension. He alleges that counts one, two, and three against him are barred by the statute of limitations and that the chief of police had no authority to reject the Board of Review's findings. He also alleges that his rights under Government Code section 3303 were violated when Peacock questioned him on November 9, 2009, without informing him that he was being investigated for misconduct. He alleges further that the findings do not support the decision and that the evidence does not support the findings. Pedro seeks damages, civil penalties, and injunctive relief.

4. Tentative Decision

The trial court conducted a hearing on the merits of the petition in March 2013. The court issued a tentative decision before the hearing stating its tentative factual findings, applying the independent judgment test (Code Civ. Proc., § 1094.5, subd. (c)), and conclusions of law. The tentative decision stated that the one-year limitations period under Government Code section 3304, subdivision (d)(1) began to run on count one on November 9, 2009, because Peacock, a police department supervisor, became aware of an allegation of misconduct against Pedro on that date. It stated that the limitations period began to run on count four on the

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same date because "Sgt. Peacock was obligated to investigate the allegation with reasonable diligence" but failed to do so. The court tentatively concluded that counts one and four were barred by the statute of limitations.

The tentative decision stated as to counts two and three that Government Code section 3304, subdivision (d)(1) should be interpreted to mean that a supervisor must know the identity of the accused officer before the one-year limitations period begins to run. It stated that Pedro had failed to show that a supervisor actually discovered or reasonably should have discovered on or before December 20, 2009, that Pedro was the officer involved in the incident of November 30, 2009. The trial court therefore tentatively concluded that counts two and three were not barred by the statute of limitations.

The tentative decision also stated that Peacock's encounter with Pedro on November 9, 2009, involved both an "investigation" and an "interrogation" within the meaning of Government Code section 3303, subdivision (c) and that Pedro was entitled to know the nature of the investigation before being interrogated. The trial court therefore tentatively concluded that the city and Beck violated the statute and that Pedro's statement to Peacock on November 9, 2009, should be suppressed as a result of the violation, resulting in setting aside count four. The court tentatively denied Pedro's requests for damages and civil penalties.

The tentative decision also stated that the chief of police had exclusive authority to bring or dismiss charges against Pedro, while the Board of Rights had exclusive authority to adjudicate those charges, including the determination whether the limitations period had run. It stated that Beck had no authority to direct the board to find that counts one, two, and three were not barred by the statute of limitations and that the board had improperly acceded to such direction by "decid[ing] Pedro's guilt on all four charges even though it believed that the statute of limitations had passed on Counts 1-3." The trial court stated, however, that because it was ruling de novo on whether the statute of limitations had run on each count the error by the police chief and the board was moot.

The tentative decision stated further that the trial court believed O'Brien's account regarding Pedro's use of profanity and disbelieved Pedro's testimony regarding the language used. The court tentatively concluded that Pedro's use of profanity was inappropriate and discourteous, and found Pedro guilty on count three.

Thus, the trial court tentatively found that the findings of guilt on counts one and four must be set aside. The court tentatively concluded that the 22-day suspension was excessive and that the matter should be remanded to the Board of Rights to determine an appropriate penalty based on the findings of guilt on counts two and three alone.

5. Hearing on the Petition

Pedro's counsel argued at the hearing on the petition that the Board of Rights had found that counts two and three (and others) were barred by the statute of limitations and that Beck had no authority to override the board's finding on that issue. Counsel argued that the board's finding was binding, that the city and Beck had failed to challenge the finding by filing a writ petition, and that the board's decision therefore was final. The trial court agreed and stated that Pedro was entitled to judgment in his favor on counts two and three and that his suspension therefore must be set aside.

Counsel for the City argued that Beck had merely declined to withdraw charges on counts two and three and did not direct the Board of Rights to find that those counts were timely. Counsel also argued that the board's imposition of a penalty indicated that it had reconsidered its finding and ultimately decided that those counts were timely. The trial court rejected this argument.

The trial court stated at the hearing, "So, as modified orally, the tentative is adopted as the order of the court."

6. Judgment and Appeal

The trial court entered a judgment on March 27, 2013, granting Pedro's writ petition. The judgment states, "The Court's Decision was as stated in its Tentative Decision on Petition for Writ of Mandate with the exception of modifications made at oral argument on March 5, 2013." The judgment grants a peremptory writ of mandate setting aside the guilty findings on all four counts and the suspension, and awarding Pedro back pay.

The City timely appealed the judgment.

CONTENTIONS

The City contends (1) counts two and three are not barred by the statute of limitations, and Beck had the authority to decide whether those counts were barred; (2) the trial court erroneously concluded that the limitations period began to run on count four when a supervisor reasonably should have discovered the allegation of misconduct, rather than when he or she actually discovered the allegation; and (3) Peacock's encounter with Pedro did not involve an interrogation and involved only routine contact, so the court erred by suppressing Pedro's statement, and in any event it should have been allowed to introduce the statement for

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purpose of impeachment.

DISCUSSION

1. Standard of Review

Code of Civil Procedure section 1094.5 governs judicial review of a final decision by an administrative agency if the law required a hearing, the taking of evidence, and the discretionary determination of facts by the agency. (*Id.*, subd. (a).) The petitioner must show that the agency acted without or in excess of jurisdiction, did not afford a fair trial, or prejudicially abused its discretion. (*Id.*, subd. (b).) An abuse of discretion is shown if the agency did not proceed in the manner required by law, the decision is not supported by the findings, or the findings are not supported by the evidence. (*Ibid.*)

"[I]n cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record." (Code Civ. Proc., § 1094.5, subd. (c).) A trial court exercising its independent judgment must afford a strong presumption of correctness to the administrative findings. (*Fukuda v. City of Angels* (1999) 20 Cal.4th 805, 817.) On appeal, we review the trial court's factual findings under the substantial evidence test if the trial court exercised its independent judgment. (*Bixby v. Perno* (1971) 4 Cal.3d 130, 143, fn. 10.)

Substantial evidence is evidence that a rational trier of fact could find to be reasonable, credible, and of solid value. We view the evidence in the light most favorable to the judgment and accept as true all evidence tending to support the judgment, including all facts that reasonably can be deduced from the evidence. The evidence is sufficient to support a factual finding only if an examination of the entire record viewed in this light discloses substantial evidence to support the finding. (*Crawford v. Southern Pacific Co.* (1935) 3 Cal.2d 427, 429; *Mcaly v. B-Mobile, Inc.* (2011) 195 Cal.App.4th 1218, 1223.)

An appellate court independently determines whether the agency prejudicially abused its discretion by failing to proceed in the manner required by law, such as by failing to comply with required procedures, applying an incorrect legal standard, or committing some other error of law. (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 479; *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 355.)

2. The Board of Rights Failed to Proceed in the Manner Required by Law

Los Angeles City Charter section 1070(a) generally provides for a hearing before an administrative tribunal known as a Board of Rights before the imposition of discipline against a police officer. When the chief of police files a verified complaint containing charges against an officer, the officer may apply for a hearing before a Board of Rights. (*Id.*, § 1070(d), (f).) "A Board of Rights hearing is considered a de novo hearing." (*Id.*, § 1070(f).) The police department, represented by an advocate, has the burden of proving each charge by a preponderance of the evidence. (*Id.*, § 1070(i).) At the conclusion of the hearing, the board must make findings of guilty or not guilty based only on the evidence presented at the hearing. (*Id.*, § 1070(n), (x).)

The Board of Rights must prescribe a penalty if it finds an officer guilty. (L.A. Charter, § 1070(n).) The chief of police may either adopt the penalty prescribed by the board or impose a lesser penalty, but may not impose a greater penalty. (*Id.*, § 1070(p); *Mays v. City of Los Angeles* (2008) 43 Cal.4th 313, 317, 319, fn. 3 (Mays).)

The penalty prescribed by the board is considered a "recommendation" in this regard. (L.A. Charter, § 1070(p).) Thus, the chief of police has limited discretion with respect to the penalty, but otherwise must abide by the board's decision.

Section 398 of the Board of Rights Manual, *supra*, states: "A Board of Rights, when it is duly constituted and proceeds under the authority vested in it and in the manner required of it by section 1070 of the Charter of the City of Los Angeles, has the essential attributes of and acts as a quasi-judicial body. As such, it is empowered to make a final adjudication of fact in connection with facts properly submitted to it."

Thus, the chief of police makes charges and the Board of Rights adjudicates them. Both the city charter and the Board of Rights Manual indicate that the board makes the final administrative decision. We conclude that the board's responsibility to the adjudicate charges includes deciding whether the statute of limitations has run.

Section 260.60 of the Board of Rights Manual, *supra*, is not to the contrary. Section 260.60 states that upon determining that a charge is outside the applicable limitations period, the board must so inform the chief of police and must send the chief a proposed amended complaint omitting such charge. This allows the chief of police effectively to dismiss the charge. Section 260.60, however, neither authorizes the chief of police to overrule the board's decision regarding the statute of limitations nor relieves the board of the responsibility of rendering a final administrative decision adjudicating the statute of limitations issue, exercising its independent judgment, in the event that the chief of police fails to dismiss the charge.

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The Board of Rights adjudicated the merits of counts one, two, and three despite its findings that the limitations period had expired. The record shows that rather than render a decision consistent with its findings, which the board had reaffirmed on reconsideration, the board yielded to the determination by the chief of police that the limitations period had not expired and followed his direction to adjudicate the charges on their merits. We conclude that the board failed to proceed in the manner required by law by yielding to the chief of police rather than exercising its independent judgment. We also conclude that the board's guilty findings on counts one, two, and three are not supported by its findings that the statute of limitations had run on those counts. We therefore conclude that the board abused its discretion and that the guilty findings on those counts are invalid.

The trial court concluded that the board's decision that counts two and three were barred by the statute of limitations period was final and binding. The court concluded in effect that such determination was the final administrative decision despite the board's later guilty findings on those same counts. We conclude to the contrary that the guilty findings rendered at the conclusion of the proceedings constituted the final administrative decision. The City had no reason to file a writ petition challenging that decision. Although we conclude that the guilty findings on counts two and three are invalid, we cannot affirm the judgment in favor of Pedro on those counts based on the City's failure to file a writ petition challenging the board's decision.

3. Counts Two and Three Are Barred by the Statute of Limitations

a. Government Code Section 3304, Subdivision (d)(1)

Government Code section 3304, subdivision (d)(1), part of the Public Safety Officers Procedural Bill of Rights Act (Id., § 3300 et seq.), establishes a one-year limitation on investigations of officer misconduct. (Mays, *supra*, 43 Cal.4th at pp. 321, 324.) Within the one-year period, a public agency must complete its investigation and notify the public safety officer that discipline may be taken. (Id. at pp. 321-322, 325.) The one-year period begins to run upon the discovery by a person authorized to initiate an investigation of an allegation of misconduct. (Gov. Code, § 3304, subd. (d)(1).) Section 3304, subdivision (d)(1) states:

"Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except as provided in paragraph (2). The public agency shall not be required to impose the discipline within that one-year period."

b. Ignorance of the Accused Officer's Identity Does Not Postpone the Commencement of the Limitations Period

Counts two and three relate to conduct that occurred on November 30, 2009. The police department became aware of the alleged acts of misconduct occurring on that date upon receipt of O'Brien's letter on December 3, 2009. The letter referred to an officer who was at the clinic on both November 9 and 30, 2009. The police department already knew from Peacock's report that Pedro was the officer who was at the clinic on November 9, although there was no single person authorized to initiate an investigation who actually put those facts together at the time. The police department and persons authorized to initiate an investigation (whom counsel call "supervisors") were aware of the allegations of misconduct on or before December 20, 2009, but there is no evidence that any supervisor actually identified Pedro as the accused officer by that date. Pedro was served with an administrative complaint on December 20, 2010.

The parties dispute whether, under Government Code section 3304, subdivision (d)(1), a person authorized to initiate an investigation must know or suspect the identity of the officer who allegedly committed the misconduct before the limitations period begins to run. We conclude that ignorance of the identity of the accused officer does not delay the commencement of the limitations period.

A limitations period begins to run when the cause of action accrues. (Aryeh v. Canon Business Solutions, Inc. (2013) 55 Cal.4th 1185, 1191; Fox v. Ethicon Endo-Surgery, Inc. (2005) 35 Cal.4th 797, 806 (Fox); Romano v. Rockwell Internat., Inc. (1996) 14 Cal.4th 479, 487.) The traditional common law rule is that a cause of action accrues at the time when the cause of action "is complete with all of its elements." (Aryeh, *supra*, at p. 1191; accord, Fox, *supra*, at p. 806.) The term "elements" in this context refers not to the specific legal elements of a cause of action, but more generally to wrongdoing, causation, and harm. (Aryeh, *supra*, at p. 1193; Norgart v. Upjohn Co. (1999) 21 Cal.4th 383, 397 (Norgart).) The discovery rule is an exception to the traditional common law rule. Under the discovery rule, the accrual of a cause of action is delayed "until the plaintiff discovers, or has reason to discover, the cause of action." (Norgart, *supra*, at p. 397.)

The general rule is that the plaintiff's ignorance of the identity of a wrongdoer does not delay the accrual of a cause of action. (Fox, *supra*, 35 Cal.4th at p. 807; Bernson v. Browning-Ferris Industries (1994) 7 Cal.4th

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936, 932.) This is because the identity of the wrongdoer is not an element of the cause of action. (Fox, supra, at p. 807 ["the identity of the defendant is not an element of the cause of action"]; Norgart, supra, 21 Cal.4th at p. 399 ["the identity of the defendant is not an element of any cause of action"].) The California Supreme Court in Bernson explained that this rule also is based on the assumption that the applicable limitations period normally affords sufficient time for a plaintiff who is aware of the injury to identify all of the wrongdoers. (Bernson, supra, at p. 932.)

The one-year period under Government Code section 3304, subdivision (d)(1) begins to run upon the discovery by a person authorized to initiate an investigation of an allegation of misconduct. The statute does not state or suggest that the defendant's identity must be known or suspected for the limitations period to commence. The statute contemplates an investigation taking place for up to one year after the discovery of the alleged misconduct before an officer is notified that discipline may be imposed. (Mays, supra, 43 Cal.4th at p. 321.) We conclude that the general rule that the plaintiff's ignorance of the identity of the wrongdoer does not delay the accrual of the cause of action applies and that the limitations period began to run on counts two and three when a person authorized to initiate an investigation first became aware of an allegation of misconduct. That occurred no later than December 16, 2009, when O'Brien's allegations of misconduct were assigned to a lieutenant in Hollenbeck Area. We therefore conclude that the administrative complaint served on December 20, 2010, was untimely. The judgment in favor of Pedro on counts two and three therefore is proper.

4. Count Four Is Barred by the Statute of Limitations

a. The Discovery Rule Applies

The trial court found that the limitations period began to run on count four on November 9, 2009, because Peacock was obligated to investigate O'Brien's allegation with reasonable diligence, but failed to do so. Thus, the court applied the discovery rule and found that in the exercise of reasonable diligence Peacock should have discovered on November 9, 2009, that Pedro's statement that he was dropping off a victim was false. The City contends the discovery rule is inapplicable. We reject the City's contention.

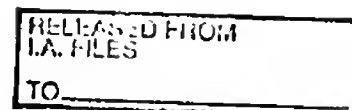
The discovery rule, where it is applicable, modifies the traditional common law rule that a cause of action accrues when it is complete with all of its elements by postponing accrual until the plaintiff discovers or reasonably should discover the cause of action. (Norgart, supra, 21 Cal.4th at p. 397.) The discovery rule "may be expressed by the Legislature or implied by the courts." (Ibid.)

A plaintiff discovers a cause of action when he or she actually knows or suspects a factual basis for its elements. (Norgart, supra, 21 Cal.4th at p. 397.) A plaintiff reasonably should discover a cause of action when he or she "has reason at least to suspect a factual basis for its elements." (Id. at p. 398; accord, Fox, supra, 35 Cal.4th at p. 807.) A plaintiff has reason to suspect when he or she knows or has notice of circumstances that would cause a reasonable person to investigate. (Norgart, supra, at p. 398.) The discovery rule charges a plaintiff with presumptive knowledge of information that would have been revealed if he or she had conducted a reasonable investigation after becoming aware of or suspecting an injury caused by wrongdoing. (Fox, supra, at pp. 807-808.)

"The discovery rule only delays accrual until the plaintiff has, or should have, inquiry notice of the cause of action. The discovery rule does not encourage dilatory tactics because plaintiffs are charged with presumptive knowledge of an injury if they have 'information of circumstances to put [them] on inquiry' or if they have 'the opportunity to obtain knowledge from sources open to [their] investigation.' " (Citation.) In other words, plaintiffs are required to conduct a reasonable investigation after becoming aware of an injury, and are charged with knowledge of the information that would have been revealed by such an investigation." (Fox, supra, 35 Cal.4th at pp. 807-808, fn. omitted.)

Some statutes expressly state that an action must be commenced within a certain period of time after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts essential to the cause of action. (E.g., Code Civ. Proc., §§ 340.1, subd. (a) [childhood sexual abuse]; 340.15, subd. (a)(2) [domestic violence]; 340.2, subd. (a) [exposure to asbestos]; 340.5 [medical malpractice]; 340.6, subd. (a) [legal malpractice]; 340.8, subd. (a) [exposure to a hazardous material or toxic substance].) Other statutes state that an action must be commenced within a certain period of time after the "discovery" of facts without expressly stating that the plaintiff has a duty of inquiry. (E.g., Id., § 338, subd. (d); Corp. Code, §§ 25506, 25507, subd. (a); Gov. Code, § 12654, subd. (a); Ins. Code, § 1871.7, subd. (1)(1).)

The California Supreme Court has long held that the limitations period under Code of Civil Procedure section 338, subdivision (d) (formerly subd. 4) commences when the plaintiff discovers or reasonably should have discovered the facts constituting the fraud. (Miller v. Bechtel Corp. (1983) 33 Cal.3d 868, 875 (Miller); Hobart v. Hobart Estate Co. (1945) 26 Cal.2d 412, 437 (Hobart).) A plaintiff who acquires knowledge of facts that would cause a reasonable person to suspect fraud has a duty to investigate and is charged with knowledge of facts that would have been revealed by a reasonable investigation. (Fox, supra, 35 Cal.4th at p. 808; Miller, supra, at p. 875; Hobart, supra, at p. 437.) The word "discovery" as used in Code of Civil Procedure section 338, subdivision (d) "is not synonymous with actual knowledge." (People v. Zamora (1976) 18 Cal.3d



538, 561-562.)

The Court of Appeal in *Debro v. Los Angeles Raiders* (2001) 92 Cal.App.4th 940, 950 (*Debro*), explained that if the term "discovery" as used in Code of Civil Procedure section 338, subdivision (d) were construed literally so as to require the plaintiff's awareness of each fact necessary for a fraud cause of action before the limitations period commences, a plaintiff could unduly delay filing litigation by claiming ignorance of the facts. So rather than construe the term "discovery" literally, the courts have construed that term in section 338, subdivision (d) to mean the date that the plaintiff actually discovered the facts or through the exercise of reasonable diligence should have discovered the facts, consistent with the discovery rule. (*Miller, supra*, 33 Cal.3d at p. 875; *Hobart, supra*, 26 Cal.2d at p. 437.)

The Courts of Appeal have construed the term "discovery" in other statutes of limitation in a similar manner. (*State of California ex rel. Metz v. CCC Information Services, Inc.* (2007) 149 Cal.App.4th 402, 417 [Ins.Code, § 1871.7, subd. (1)(1)]; *Deveny v. Entropin, Inc.* (2006) 139 Cal.App.4th 408, 423 [Corp.Code, § 25506]; *Debro, supra*, 92 Cal.App.4th at p. 953 [Gov.Code, § 12654, subd. (a)]; but see *Eisenbaum v. Western Energy Resources, Inc.* (1990) 218 Cal.App.3d 314, 325-326 (construed "discovery" in Corp.Code, § 25507, subd. (a) as requiring "actual knowledge"). This is consistent with the rule stated in *People v. Lopez* (2003) 31 Cal.4th 1051, 1060, that when statutory language has been judicially construed and the Legislature subsequently uses the same language in another statute on a similar subject, the courts presume that the Legislature intended the language to have the same meaning. (*Deveny, supra*, at pp. 422-423 [citing *Lopez*]; *Debro, supra*, at p. 953 [stating the same rule])

Government Code section 3304, subdivision (d)(1), including the operative language, was originally enacted in 1997 as subdivision (c). (Stats.1997, ch. 148, § 1, p. 749.) This was long after the California Supreme Court had definitively construed the term "discovery" in Code of Civil Procedure section 338, subdivision (d) as encompassing the discovery rule and not synonymous with actual knowledge. Consistent with the judicial construction of the term "discovery" in section 338, subdivision (d), we conclude that the same term in Government Code section 3304, subdivision (d)(1) has the same meaning. We therefore hold that the one-year limitations period under Government Code section 3304, subdivision (d)(1) begins to run when a person authorized to initiate an investigation discovers, or through the use of reasonable diligence should have discovered, the allegation of misconduct. (See *Haney v. City of Los Angeles* (2003) 109 Cal.App.4th 1, 8, 11.)

b. Substantial Evidence Supports the Trial Court's Finding

The date that a person in the exercise of reasonable diligence should have discovered the facts is a question of fact. (*Fox, supra*, 35 Cal.4th at p. 810; *Ovando v. County of Los Angeles* (2008) 159 Cal.App.4th 42, 61) We review the trial court's finding under the substantial evidence test.

The evidence shows that on November 9, 2009, Peacock could have inquired at the clinic and could have asked his watch commander whether the clinic was a facility where the police took crime victims for treatment, and would have been told that the answer was no. He could have asked Pedro and others further questions to ascertain whether Pedro was conducting official business at the time, but instead relied on his brief conversation with Pedro and failed to learn the truth. Pedro testified at the Board of Rights hearing that if Peacock had informed him that Peacock had been sent to investigate a complaint he would have told Peacock the truth as to why he was there. We conclude that substantial evidence supports the trial court's finding that in the exercise of reasonable diligence Peacock should have discovered on November 9, 2009, that Pedro's alleged statement was false. The judgment in favor of Pedro on count four therefore is proper.

DISPOSITION

The judgment is affirmed. Pedro is entitled to recover his costs on appeal.

FOOTNOTES

1. The City does not challenge the trial court's decision on count one.
2. The exceptions stated in Government Code section 3304, subdivision (d)(2) are inapplicable and are not in dispute.
3. In light of our conclusion, we need not address the City's third contention.

CROSKEY, J.

WE CONCUR: KLEIN, P. J. ALDRICH, J.

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Court of Appeal, First District, Division 2, California.

Marvetia Lynn RICHARDSON, Appellant, v. CITY AND COUNTY OF SAN FRANCISCO et al. Respondents; City and County of San Francisco et al., Real Parties in Interest.

A133300

Decided: February 13, 2013

Christopher B. Dolan, Quinton B. Cutlip, Dolan Law Firm, San Francisco, for Appellant. Dennis J. Herrera, City Attorney, Jonathan Givner, Deputy City Attorney, Andrew Shen, Deputy City Attorney, Christine Van Aken, Deputy City Attorney, for Respondents and Real Parties in Interest.

After 16 years as a member of the San Francisco police force, Inspector Marvetia Lynn Richardson was terminated by the San Francisco Police Commission (Commission) for misconduct arising out of three separate incidents. Richardson filed a petition for writ of administrative mandamus in the San Francisco Superior Court seeking reinstatement, back pay, and damages. The court affirmed the Commission's decision in all regards. Richardson appeals, asserting numerous challenges to the court's order denying her petition. We affirm.

FACTUAL BACKGROUND

Unauthorized CLETS Transactions

In February 2007, Dwayne Jackson filed a complaint with the San Francisco Office of Citizen Complaints (OCC), alleging that Richardson had obtained confidential information on him and his wife through improper computer searches. The matter was referred to the San Francisco Police Department's (SFPD) Management Control Division (MCD), which conducted an investigation and discovered that between January 1, 2006, and March 2007, Richardson had run 48 unauthorized searches on the SFPD's CLETS computer system. The subjects of her searches were Samonia Nelson (her girlfriend), Jackson (Nelson's ex-boyfriend), and Orlandois Caleb (Nelson's ex-husband).

On March 15, 2007, MCD forward the matter to the SFPD's Special Investigations Division (SID), which received the file on March 22, 2007.

On May 7, 2007, Lieutenant Daniel J. Mahoney of SID returned the file to MCD with a memorandum advising: "This incident involves computer queries made by Inspector Richardson regarding Duane Jackson. An anonymous letter was sent to Mr. Jackson's wife (Mrs. Dee Jackson) in Antioch. [1] Currently, Insp. Richardson is under investigation by Antioch Police Department for allegations of theft by check fraud and it was believed that the unauthorized computer usage was linked. After conferring with Antioch PD, it is apparent that the two cases are not linked and are separate incidents. [2] At this time, SID is not conducting an investigation into the unauthorized computer usage as a criminal violation." The memorandum concluded: "There is no criminal investigation being conducted on the matter of unauthorized computer usage by Insp. Marvetia L. Richardson # 1246. This case is being sent back to Management Control Unit for administrative action."

On August 9, 2007, Richardson was interviewed by investigators from MCD. She admitted conducting the improper searches, offering excuses for having done so, but denied having divulged confidential information

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On January 8, 2008, Lieutenant Lynette A. Hogue, Commanding Officer of MCD, sent a memorandum to then Chief of the SFPD Heather Fong. Concerning the SID evaluation of the complaint, the memorandum summarized: "On March 22, 2007, the Special Investigations Unit received and reviewed the information contained in the OCC complaint and determined that they would not conduct a criminal investigation at this time. On May 7, 2007, the Special Investigative [sic] Division referred the complaint back to Management Control Division with their recommendation."

The Check Fraud Charges

Shortly after the improper CLETS transactions came to light, Richardson was the subject of another investigation, this one of a serious criminal nature involving multiple police jurisdictions.

As will be discussed in greater detail below, Richardson owned a home in Antioch, part of which she rented to a tenant, Bridget Reed. Reed was involved in a relationship—the nature of which was described variously by different witnesses—with a young man named Jason Metz.⁴ According to Metz, Reed persuaded him to steal checks from the checkbooks of both his mother and father, who owned a real estate business in Antioch, and forge their signatures. Metz then gave the checks to Richardson, who deposited the checks into her checking account, giving Metz and Reed some cash back and keeping the rest for herself. The checks were in the following amounts, with the following descriptions noted on the memoranda lines: \$800 for "rent," \$6,500 for "trip for Bridgette birthday/deposit," \$3,100.50 for "rent/deposit," \$6,400 for "school/tuition," \$4,500 for "car repair," \$4,250 for "promise ring for Bridgette," and \$4,500 for "car purchase."

In late March 2007, Metz's parents discovered that unauthorized checks totaling over \$28,000 had been written on their accounts. Of that amount, all but \$1,000 or \$2,000 had been written to Richardson. Richardson's checking account was subsequently frozen due to suspected check fraud.

Richardson would later testify that Metz told her he worked for his parents' real estate company and that he had authority to write the checks. According to Richardson, Metz would give her a check with the understanding that she would cash it and give Reed the cash, keeping some for herself to cover rent and a deposit that Reed owed her. Despite that she was an Inspector in the SFPD's fraud unit, Richardson claimed she never suspected Metz did not have the authority to write the checks.

The check fraud allegations against Richardson came to the attention of the SFPD by April 9, 2007. At that time, the Antioch Police Department (Antioch PD) was conducting an investigation, which lasted until May 2007, when the investigation was turned over to the Brentwood Police Department (Brentwood PD).

On September 14, 2007, Brentwood Police Detective M. Estrada prepared a report in which he recommended that the "case be forwarded to the District Attorney's Office for review and issuance of a complaint against the three responsible." As to Richardson in particular, Detective Estrada recommended charging her with seven counts of grand theft and seven counts of fraud. The report originally indicated that the case was "Closed," although a subsequent hand-written notation indicated that on November 1, 2007, it was reopened for follow-up investigation into the original checks for forgery evaluation.

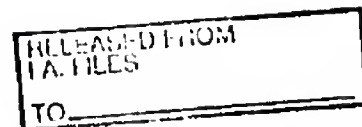
On December 18, 2007, Detective Estrada prepared a supplemental report advising that he was unable to obtain the original checks. As such, his ability to evaluate the checks for forgery was limited. The report identified the case status as "Closed."

On December 16, 2008, the Brentwood PD faxed a document titled "Request for Prosecution" to Lieutenant Rob O'Sullivan of the SFPD. It advised that prosecution of Richardson for the check fraud was declined due to "Insufficient Evidence." A Contra Costa County deputy district attorney had signed the document the previous day. The accompanying fax cover sheet noted, "Per your request."

The Antioch Incident

Shortly after 1:00 a.m. on the morning of June 7, 2007, Antioch police dispatch broadcast a call regarding a disturbance at a residence in Antioch. The residence was a five-bedroom home owned by Richardson, who rented the three upstairs bedrooms to Bridget Reed and her three children. That night, Richardson had numerous houseguests—three adults, two teenagers, and two young children—all of whom were planning to go to Six Flags Discovery Kingdom the following day. Sanonia Nelson—Richardson's girlfriend and one of the subjects of her improper CLETS searches—was one of the houseguests.

Antioch Police Officers Jason Vanikypool and Santiago Martinez responded to the call.⁵ When they arrived at Richardson's house, the officers could hear a "verbal argument between people" and "screaming" emanating from the house. They knocked on the front door, and Nelson opened it, allowing them to come inside. When they entered, they saw Reed, who had recently been served an eviction notice by Richardson, walking down the stairs. She told the officers that Richardson's houseguests were being loud, which was making it hard for her daughter to fall asleep. Her requests that they quiet down had been ignored, and she feared it was going to



turn violent.

At Martinez's request, Nelson went to get Richardson, who entered the living room from the downstairs master bedroom. Vanderpool described Richardson as "agitated" that they "were inside of her house." According to Vanderpool, when Richardson told Martinez that she was the homeowner, he responded that she wished she owned the home.⁶ A brief conversation ensued and, according to Vanderpool, Richardson "was just uncooperative with us. And we were explaining why we were there and she said something to the fact that remember I do the same thing that you do and called [Martinez] a broke ass security" in a tone that Vanderpool considered "assertive."

Vanderpool testified that as he and Martinez were leaving, Martinez told Richardson that she "set a great example for [her] agency." Richardson responded by telling him to "fuck off" and slamming the door behind them.⁷

Not surprisingly, Richardson's version of the events painted a much more favorable portrait of her behavior. She testified that when she came into the living room, she asked the officers what was going on. Martinez asked if she was the homeowner, and when she answered that she was, he retorted that she wished that she was.⁸ When Richardson explained to Martinez that she was evicting Reed, he responded, "I don't care. If I have to come back, everybody is going to be arrested for disturbance of the peace." Richardson replied, "[D]on't forget [that] I do the same thing you do, Officer Martinez, you don't have to threaten me with the Penal Code. I've been telling you what's going on and you're questioning me about homeownership. Totally out of bounds here." Martinez told her, "[W]ell, if I got to come back, I'm going to arrest you. You're fired anyway.

You're not even a cop. You're fired. You're fired. You're an alleged homeowner." Richardson responded, "I [can] see this conversation is not going to go anywhere. You're very unprofessional. You're acting like a security guard. Please leave my home and come back with a warrant and your sergeant." She then escorted the officers to the door and closed it behind them. After that, she told her guests to settle down and go to bed, and she went into her bedroom, shut the door, and went to sleep. She denied ever calling Martinez "broke ass security," swearing at any officer, or slamming the door behind them.

After they left the house, the officers walked back to their patrol cars, discussing what had happened. As they were talking, they "heard some more screaming upstairs, sounded like someone may have been alarmed into the wall and heard a female voice scream to call the police." Because they could hear some kind of physical altercation, they requested backup. While they were waiting for additional units to arrive, Reed and her daughter ran out of the house. As Vanderpool described it, "They were shaking. Her daughter was very upset. She might have even been crying." Reed told the officers that someone inside the house threatened to kill them and they were afraid to go back inside.

Within minutes, Officer Jason Joannides and Sergeant Tom Fuhrmann arrived. They found Martinez and Vanderpool standing in front of the house, speaking with Reed and her daughter. With four officers now there, they returned to the house. From the time they left the house following the first visit and approached the house the second time, approximately 15 minutes had elapsed.

While Joannides walked back and forth watching the house, Vanderpool, Martinez, and Fuhrmann approached the front door, knocked very loudly several times, and rang the doorbell multiple times, repeatedly announcing that they were from the Antioch PD. Through the closed door, they could hear someone inside whispering, "If you don't answer the door, they'll go away." They also requested that dispatch attempt to call the residence, but dispatch was apparently unable to find a phone number. Their efforts to contact someone inside lasted "well over five minutes" in Vanderpool's estimation and "[s]omewhere between 10 and 15 minutes" in Fuhrmann's estimation.

Twenty-two minutes after he arrived on the scene, Fuhrmann authorized forced entry, and Vanderpool kicked the front door open, a process that took a couple of minutes and caused significant damage to the door. The officers entered the house and announced their presence. Vanderpool had his gun in "low ready position," and Fuhrmann also had his weapon drawn. As they walked into the house, calling for people to come out, two small children, whom Fuhrmann described as "Just little things. Little tykes. They were quite upset and shaken," came down from upstairs. After the children were seated in the living room, Nolan Satterfield, an adult male who had been sleeping on a couch in the family room, walked in and put his hands up. In a downstairs bedroom, they found two teenagers who were, by Vanderpool's testimony, "acting as if they were asleep in the bed." They were detained in handcuffs and turned over to Joannides.

Vanderpool, Martinez, and Fuhrmann then approached the master bedroom, Martinez carrying a Taser in his hand and the other two carrying their service weapons. The bedroom's French doors were closed, and they very loudly announced, "Antioch PD, open the door" several times. Eventually, Richardson opened one of the doors, although she stood partially behind the door, with her right side, including her right hand, obscured and only the left side of her body visible to the officers. According to Vanderpool, they were aware that Richardson was a police officer and were concerned that she was concealing a firearm behind the door.

Richardson was instructed multiple times to come out of her bedroom and show her hands. Fuhrmann asked

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Richardson where the dogs were, and she responded, "Out in the back." Because she was still not showing her hands, he reached in and grabbed her by the crook of her left elbow, trying to pull her away from the door. He yanked her out of the room enough that her right hand was visible, and they could see that she did not have a gun in it. Richardson reacted by pulling away from him and moving back into the bedroom. Martinez then activated his Taser, striking Richardson on the left side of her body.

A digital recorder that Martinez was carrying in his pocket captured the following exchange:

"OFFICER: Come on out. Come on out.

"OFFICER: Come on out.

"RICHARDSON: Why you guys here?

"MARTINEZ: Come here.

"OFFICER: Come on out. Now.

"MARTINEZ: Let me see your hands.

"RICHARDSON: [Unintelligible—sounds like have to —]

"MARTINEZ: Let me see the other hand. Let me see the other hand.

"OFFICER: Ma'am, you're going to get tazed. Come on out. Now.

"OFFICER: Come on. Come on.

"RICHARDSON: Samonia, wake up.

"OFFICER: Where's the [unintelligible—sounds like dogs at]?

"RICHARDSON: Out in the back. What's going on?

"OFFICER: [Unintelligible—sounds like Wake up.] Go. Now.

[Taser firing sound; electrical pulses.]

"RICHARDSON: [Screaming sound.]

"OFFICER: Get up.

"RICHARDSON: Aw, you did that on purpose, dude.

"OFFICER: [Unintelligible.]

"MARTINEZ: Turn around. Turn around. Turn around. Turn around.

"OFFICER: Get on your stomach.

"RICHARDSON: How do you justify that?

"OFFICER: Shows us your hands. That's all you gotta do.

"RICHARDSON: I did. You know I'm not armed. [Unintelligible—sounds like Samonia].

"FEMALE: What?

"RICHARDSON: Call my attorney. Tell him they tazed me. I'm unarmed. I'm in my pajamas."

According to Vanderpool, Richardson was then helped off the ground and, in handcuffs, moved to the dining room. Fuhrmann made the decision to cite Richardson for resisting arrest. Vanderpool prepared the citation and requested that Richardson sign it, which would have allowed her to remain in the house. Rather than sign it, however, Richardson attempted to write "tazed" on it. The officer told her not to, instructing her only to sign her name on the signature line. Again, she attempted to write "tazed." Richardson was then taken into custody.

Again, Richardson described the incident differently. She testified that she was asleep when she heard some "beeping sounds." She opened her bedroom door and "with a clear unobstructed view [saw] Sergeant Fuhrmann, Martinez, and Vanderpool standing in very close proximity next to each [other] pointing gun[s] and tasers at me." As she described it, "I was standing in the doorway clearly on the wood portion or the wood frame, exposing my hands, head and body." She was "very groggy," "[s]leepy and dazed," and she heard the officers shout "all kind[s] of things" at her. Fuhrmann asked where the dogs were, and she responded that

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they were in the backyard. She vehemently denied that her hand was hidden behind the door, explaining that as a police officer, she was very aware of officer safety issues and would not have put Nelson and her daughter, who were still asleep in the bed, in harm's way by trying to hide behind the door.

After Richardson responded to the dog inquiry, Fuhrmann suddenly grabbed her left arm and pulled her towards him, and Martinez fired his Taser at her. As she described it: "I fell to the ground. I started shaking. I felt volts of electricity going through me. I felt urination running down my leg and I fell to the ground. I said, oh, dude, you did that on purpose. How you going to justify that, Martinez? How you going to justify that?"

According to Richardson, Vanderpool then handcuffed her while she was still on the ground, yanked her up off the floor, and walked her into the dining room. He wrote a citation for resisting arrest and then asked her to sign it. When she attempted to write "tasered" on it, he told her she could not do that and to just sign the citation. After she again attempted to write "tasered," he took it away, telling her she was going to go to jail. Richardson testified that she would have signed the citation had he permitted her to write "tasered" on it. At Richardson's request, an ambulance was called so she could be taken for a medical evaluation because she was concerned for her health: "I urinated on myself. I was despondent. I was shaken up. I was a wreck."

When asked at the evidentiary hearing why she did not respond to the commands to show her hands, Richardson explained, "Three officers were talking to me at the same time. Show me your hands. It was all confusing. I'm asleep. It all happened so quickly. I couldn't concentrate on one particular officer at that particular one point in time aside from Sergeant Fuhrmann."

A complaint filed June 13, 2007 by the Contra Costa District Attorney charged Richardson with harboring felons (Pen. Code, § 32) and obstructing a police officer (Pen. Code, § 148, subd. (a)(1)), while others in the house, including Nelson, were brought up on additional charges.⁹

On August 6, 2007, Sergeant Jennifer Dorantes of MCD interviewed Richardson regarding the events of June 7. According to Dorantes, during the interview, Richardson was evasive in her answers and told her that the Antioch police officers never issued any commands or a warning that she was going to be tased. According to Richardson, however, she advised Dorantes that she did not recall the officers issuing any commands or warnings.

PROCEDURAL BACKGROUND

The Complaints

On June 14, 2007, the SFPD filed a complaint (case no. ALW C07-076) with the Commission. It contained one specification that related to the Antioch Incident, charging Richardson with "Resisting, delaying or obstructing an officer in the discharge or attempt to discharge any duty of his or her office or employment, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department."

A first amended complaint followed on March 13, 2008, this one containing nine specifications. Specification nos. 2 through 4 involved the Antioch Incident. No. 2 echoed the allegations of specification no. 1 in the original complaint. No. 3 alleged that Richardson engaged in "Unofficer like conduct toward the Antioch Police Department which reflects discredit upon the Department." And no. 4 charged Richardson with "Making statements that are not truthful during the MCD interview, when Members are required to answer all questions truthfully and without evasion."

Specification nos. 6 through 9 involved the CLETS transactions. Nos. 6, 7, and 8 charged Richardson with "Bringing discredit on the Department [by using her] position as member of Department to obtain confidential information through unauthorized CLETS transactions," one specification pertaining to each of the three victims of her CLETS searches. No. 9 alleged that Richardson divulged confidential information obtained during those improper transactions.

On February 19, 2009, the SFPD filed new disciplinary charges against Richardson (case no. ALW C09-004), these arising out of the check fraud incident. The two specifications charged her with "Conduct Unbecoming an Officer, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department."

Richardson's Attempts to Dismiss the CLETS and Check Fraud Charges

On April 8, 2009, Richardson filed a lawsuit in the San Francisco Superior Court against the City and County of San Francisco, the SFPD, and then Chief of Police Heather Fong, seeking to enjoin them from pursuing the CLETS and check fraud allegations on the ground that the charges were barred by the statute of limitations. (Case no. 487077.) First amended and second amended complaints followed.

On June 25, 2009, Richardson filed an unsuccessful ex parte application in her civil action for a temporary

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restraining order to preclude the SFPD from pursuing the allegedly time-barred specifications. That same day, she filed with the Commission a "Motion to Exclude All Evidence and Dismiss All Charges Related to Allegations That Are Barred by the Statute of Limitations." Again, the motion sought dismissal of the CLETS and check fraud specifications on statute of limitations grounds.

The Evidentiary Hearing

An evidentiary hearing on the specifications against Richardson commenced on July 8, 2009, before Police Commissioner David Onek, the designated hearing officer. At the outset of the hearing, Richardson moved to exclude all evidence of what happened during the Antioch PD's second entry into her home. The Commission denied the motion without prejudice on the ground that it had not yet heard evidence on the circumstances surrounding the entry.

Commissioner Onek then took evidence over the course of eight days in July. Sworn testimony and documentary evidence was presented by both parties. The SFPD presented testimony from Officer Vanderpool, Sgt. Fuhrmann, Sgt. Dorantes, Lt. Kenwade Lee, Sgt. Paget Mitchell, Sgt. Steven Ford, Lt. Edward Santos, Jason Metz, Gayle Metz, Wayne Metz, and Lt. Robert O'Sullivan. Richardson testified on her own behalf, and also called as witnesses Officer Sylvia David, Samonla Nelson, Nolan Satterfield, Betty Marsden, and Sgt. Ronald Reynolds. During the hearing, Richardson admitted three of the specifications (nos. 6, 7, and 8 involving the CLETS transactions).

Also during the evidentiary hearing, counsel for Richardson, Quinton Cutlip, expressed concern that the City Attorney's office had a conflict of interest because it was advising the Commission in the case against Richardson, while at the same time representing the SFPD in Richardson's civil case. Commissioner Onek responded to this concern by saying, "I understand your concern, Mr. Cutlip. There is a wall between different parts of the city attorney's office when they have potential conflicts like this." When pressed by Mr. Cutlip for "some kind of documentation of this wall," the Commissioner declined the request, explaining, "[T]his is not the venue for this concern." Mr. Cutlip persisted, asking that the Commission recuse itself from the case, which request Commissioner Onek denied.

On July 14, 2009, in the midst of the evidentiary hearing, Richardson moved for nonsuit on the specifications arising out of the Antioch incident. As to specification nos. 2 and 3, Richardson argued that she could not be found guilty of the Antioch related charges because the Antioch PD's entry into her house was unconstitutional and she could not be punished for peaceful resistance to the officers' unlawful conduct. As to specification no. 4, she contended that the evidence presented by the SFPD, specifically the testimony of Dorantes who conducted the MCD interview, demonstrated that she never made false statements during the interview. She also renewed her motion to exclude evidence regarding the Antioch incident.

The Commission's Rulings

On November 4, 2009, the Commission denied Richardson's June 25 motion to dismiss the CLETS and check fraud allegations on statute of limitations grounds.

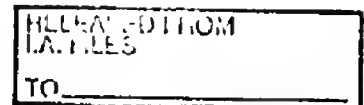
On December 9, 2009, the full Commission considered the record of the evidentiary hearing. Following deliberations, it sustained specification nos. 2 and 3 (the Antioch incident) and 6 through 8 (the unauthorized CLETS searches) in case no. ALW C07-076, and specification nos. 1 and 2 (the check fraud scheme) in case no. ALW C09-004. Following argument from counsel for the parties in the subsequent penalty phase, the full Commission again deliberated and unanimously voted to terminate Richardson from employment with the SFPD. In announcing its decision, it stated that the check fraud charges alone warranted termination. The Commission's decision was adopted a week later in resolution no. 126-09, which ordered that Richardson be terminated effective immediately.

Also on December 9, the Commission issued a decision denying Richardson's July 14, 2009 motion for a nonsuit. Richardson's motion to exclude evidence of what transpired during the Antioch incident was likewise denied.

On June 2, 2010, the Commission adopted three additional resolutions. Resolution No. 61-10 adopted findings of fact and conclusions of law supporting the Commission's November 4, 2009 decision denying Richardson's motion to dismiss the allegedly time-barred specifications. As to the CLETS charges, it stated:

"A. The Commission finds that the one-year Government Code § 3304(d) statute of limitations for notifying an officer of proposed discipline was tolled for 53 days as to these CLETS charges, during the Special Investigations Division (SID) investigation of the allegations as possible crimes. (Government Code § 3304(d)(2).)

"On February 21, 2007 an Office of Citizen's Complaints (OCC) investigator's letter first notified Management Control Division (MCD) of possible CLETS violations by Inspector Richardson. MCD investigates possible administrative disciplinary charges against officers. On March 15, 2007, MCD referred the matter to the Special Investigations Division for investigation as possible crimes. The statutory time for bringing



disciplinary charges was tolled during that SID investigation of possible crimes, pursuant to Government Code § 3304(d)(1). On May 7, 2007 SID returned the matter to MCD for follow-up as an administrative disciplinary (not criminal) matter. Fifty-three (53) days had elapsed during that Government Code § 3304(d)(2) tolling period, while the matter was being investigated by SID.

"B. The Commission finds that the Specifications 6, 7, 8 and 9 allegations of CLETS violations are not time-barred by the Government Code § 3304(d) one-year statute of limitations as argued in Inspector Richardson's Motion to Dismiss, since Inspector Richardson was served March 13, 2008 with notice of proposed discipline on these charges, which was within one year plus 53 (tolled) days after the February 21, 2007 notice to the Department of possible CLETS violations."

Concerning the check fraud charges, the resolution provided:

"A. The Commission finds that the one-year Government Code § 3304(d) statute of limitations for notifying an officer of proposed discipline was continually tolled as to these fraudulent check charges until December 16, [2008], during investigation as possible crimes by two other police departments and during the time the District Attorney considered criminal charges. (Government Code § 3304(d)(2).)

"(i) The Antioch Police Department investigated during April and May 2007. In April 2007 the San Francisco Police Department learned of the Antioch investigation. Inspector Richardson does not dispute that time was continuously tolled during the Antioch Police Department investigation.

"(ii) The Antioch investigation led to further investigation by the Brentwood Police Department during May and June 2007, which further continuously tolled the time. Inspector Richardson does not dispute that time was continuously tolled during this time period as well.

"(iii) Brentwood Police Department referred the matter to the Contra Costa District Attorney for possible criminal prosecution. On December 15, 2008 the District Attorney declined to prosecute, and so notified the Brentwood Police Department on December 16, 2008.

"(iv) The Commission finds that the Government Code § 3304(d) one-year time period for notifying Inspector Richardson of proposed discipline on the fraudulent check charges was continuously tolled from April 2007 when the San Francisco Police Department first learned of the Antioch Police Department investigation, until the District Attorney completed its part of the process in December 2008. (Government Code § 3304(d)(2).)

"B. The Commission finds that the Case No. C09-004 (Specifications 1 and 2) allegations of check fraud violations are not time-barred by the Government Code § 3304(d) one-year statute of limitations as argued in Inspector Richardson's Motion to Dismiss, since Inspector Richardson was served February 18, 2009 with notice of proposed discipline on these charges, which was well within one year after the continuous tolling period ended on December 18, 2008."

The second resolution, No. 62-10, adopted the Commission's findings and conclusions supporting the December 9, 2009 decision sustaining the specifications concerning the Antioch incident, the CLETS transactions, and the check fraud incident. As pertinent here, in support of the Antioch charges the Commission found that "Inspector Richardson delayed and obstructed members of the Antioch Police Department in the discharge and attempted discharge of their duties when she refused their order to show both hands, which reflected discredit on the San Francisco Police Department." As to the CLETS charges, the Commission found that Richardson admitted the allegations of conduct the improper computer searches. Lastly, concerning the check fraud, the Commission found that Richardson's testimony was not credible and that she engaged in conduct unbecoming an officer when she deposited numerous checks belonging to Wayne and Gayle Metz without their permission.

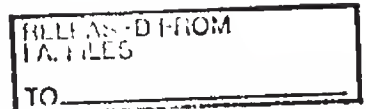
Finally, Resolution No. 63-10 adopted the Commission's findings and conclusions supporting its December 9, 2009 decision denying Richardson's motion for nonsuit.

Petition for Writ of Administrative Mandamus

On March 8, 2010, Richardson filed a petition for writ of administrative mandamus in the San Francisco Superior Court. The petition, filed against the Commission, identified as real parties in interest the City and County of San Francisco, the SFPD, Police Chief George Gascon, and former Police Chief Heather Fong.

The petition challenged the Commission's decision sustaining the specifications against Richardson. As to the specifications pertaining to the Antioch incident, Richardson argued that the decision was invalid for multiple reasons: the Commission improperly excluded a memorandum prepared by Sergeant Fuhrmann regarding the forced entry into Richardson's home; it improperly considered evidence of what happened after the police illegally entered her home in violation of the Fourth Amendment; it abused its discretion because its findings were not supported by the evidence; and the penalty was excessive as a matter of law.

As to the CLETS and check charges, Richardson claimed they were barred by the statute of limitations, and the



decisions regarding those specifications were not supported by the evidence. As to the CLETS charges, she contended the penalty was excessive as a matter of law.

The petition also alleged that the Commission had a conflict of interest. According to the petition, during the July 2009 hearing, Commissioner Onek consulted with the City Attorney's office on a variety of matters, and an attorney from the City Attorney's office was present during the December 9, 2009 hearing before the full Commission. At the same time, the City Attorney's office was representing the City and County of San Francisco and the SFPD in Richardson's civil lawsuit. This, Richardson contended, deprived her of a fair trial.

Richardson prayed for a peremptory writ of mandate directing the Commission to set aside its decisions of November 4 and December 9, 2009 and reinstate her with backpay. She also sought damages in the form of lost wages and benefits, compensation for the damage to her reputation, and attorney fees.

After respondents answered, the matter was assigned to the Honorable Ronald E. Quidachay for all purposes. Judge Quidachay set a briefing schedule for the motion for peremptory writ, with the motion to be heard July 11, 2011.

On April 25, 2011, Richardson filed her notice of motion and motion for peremptory writ of administrative mandamus, reiterating the claims asserted in her petition. In support of her motion, Richardson filed a request for judicial notice of the decision in *Richardson v. City of Antioch*, supra, 722 F Supp 2d 1133, and numerous documents in her civil case.

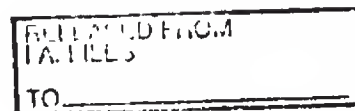
Respondents filed opposition on May 16, 2011. In support, they submitted a declaration of Marie C. Blits, a deputy city attorney in the City Attorney's office. Blits's declaration detailed the City Attorney's office's due process screens, and testified that she was the sole deputy district attorney who advised the Commission with respect to Richardson's hearing and that she did not discuss Richardson's civil case with any attorneys handling it, other than some possible scheduling matters.

After Richardson filed a reply and a second request for judicial notice (this one seeking judicial notice of certain pleadings she claimed demonstrated the conflict of interest), Judge Quidachay heard lengthy argument on the motion. At the conclusion of the hearing, he took the matter under submission.

On July 20, 2011, after Richardson's motion was heard, she filed a third request for judicial notice. This time, she sought judicial notice of an "Order for Sealing and Destruction of Arrest Records" entered that day by the Contra Costa County Superior Court. Per that order, the court had found "that no reasonable cause exist[ed] to believe that [Richardson] committed the offense for which she was arrested" and it ordered all records of her arrest sealed and destroyed. According to Richardson, the order was "one more example of a Court ruling that Insp. Richardson did not resist or obstruct the Antioch Police Department during the June 7, 2007 incident at her home."

On July 25, 2011, Judge Quidachay entered his "Order/Judgment Denying the Petition for the Writ of Administrative Mandamus." As to the Antioch Incident, he found that "the evidence [did] not support a conclusion that respondent's findings regarding the events surrounding the Antioch Incident should be overturned." He explained: "The witness depositions from both parties show that there is a dispute over whether petitioner used profanity against Antioch police officers [sic] during the first entry, and whether petitioner failed to show her hands during the second entry. [Citation.] Due to the fact that there was no audio recording during the first entry to resolve the disputed profanity issue, and because the transcript of the audio recording during the second entry indicates petitioner was not showing her hands after repeated requests by the officers on the scene [citation], deference is given to respondent's findings regarding both entries. [1] Thus, petitioner failed to comply with the SFPD General Orders, which require high standards of behavior during both on and off-duty conduct." Turning to the exclusionary rule, Judge Quidachay concluded that because the proceeding was civil in nature and no exceptions applied, the rule did not bar the admission of evidence of the Antioch Incident. And lastly, he concluded that Richardson's conduct was not protected by the First Amendment.

Turning to the check fraud and CLETS charges, Judge Quidachay concluded that they were timely filed. As to the CLETS charges, he stated: "[T]he Court concludes that SID did not end its investigation of the CLETS issue until May 7, 2007. Based on the fact that the first memorandum was written by a member of SID, the dates from this memorandum are used in the determination of this matter. While the second memorandum may indicate that the SID investigation concluded on March 22, 2007, this second memorandum was written not by a member of SID, but by a member of MCD, a separate department. Furthermore, the second memorandum was written eight months later on January 8, 2008. It defies reason to believe that a member of a separate department who is interpreting a document from outside its own department is better able to ascertain the conclusion of an investigation within that separate department, particularly when the document is not composed until several months later. [1] Thus, using the dates from the first memorandum, it is determined that because the SID investigation did not conclude until May 7, 2007, the statute of limitations was tolled from the time MCD referred the matter to SID on March 22, 2007, until May 7, 2007, a period of 53 days. This



supports respondent's finding that the CLETS charges were timely filed on March 12, 2008."

As to the check charges, Judge Quidachay rejected Richardson's claim that evidence of an "actual" pending investigation was required to toll the statute of limitations under Government Code section 3304, subdivision (d)(2)(A). He noted that *Breslin v. City and County of San Francisco* (2007) 146 Cal.App.4th 1064, 55 Cal.Rptr.3d 14 (Breslin) did not support this proposition, nor did Richardson cite any other "case law requiring the investigative entity to provide as detailed of an 'actual' investigatory activity as petitioner desired."

In the absence of any evidence showing that the Contra Costa County District Attorney did not conduct an investigation, the December 15, 2008 document evidencing its decision not to prosecute supported the Commission's conclusion that the statute of limitations was tolled until that decision.

Lastly, Judge Quidachay rejected Richardson's conflict of interest claim. He noted that to determine the procedural fairness of an administrative hearing, a court may consider evidence not presented at the administrative hearing if it is relevant to the petitioner's claim. Here, Deputy City Attorney Blits submitted a declaration that detailed the screens that were in place in the City Attorney's office, evidence clearly relevant to Richardson's conflict of interest claim. And based on that evidence, he concluded the claim was without merit.

With that, Judge Quidachay denied Richardson's petition.

Richardson's notice of appeal followed on September 19, 2011.

DISCUSSION

A. Richardson's Contentions

Richardson's appeal raises numerous challenges to Judge Quidachay's denial of her writ petition. As to the charges stemming from the Antioch incident, Richardson presents four arguments: (1) Judge Quidachay improperly upheld the specifications based in part on the profanities she allegedly directed to the Antioch police officers during the first entry, even though the Commission never made any findings on that issue; (2) her statements to the officers were constitutionally protected and, as such, it was an abuse of discretion to terminate her career based upon such statements; (3) her career should not have been terminated over her conduct during the second Antioch police department entry, because she had no obligation to show her hand since the officers were in her home unlawfully and evidence of what transpired during that entry should have been excluded; and (4) termination based upon the events during the second entry was excessive and an abuse of discretion.

Turning to the CLETS charges, Richardson's arguments are threefold. (1) there was no substantial evidence supporting the ruling by the Commission and Judge Quidachay that the charges were timely filed; (2) Commissioner Onek deprived her of a fair hearing by denying her request to examine MCD investigator Santos about the investigation conducted on the CLETS charges; and (3) it was excessive and an abuse of discretion to terminate her for her first offense of misusing the CLETS system.

As to the check fraud charges, Richardson argues only that there was no substantial evidence that the statute of limitations was tolled after the Brentwood PD closed its criminal investigation.

The final issues Richardson raises on appeal concern her conflict of interest claim. She contends that Judge Quidachay improperly considered the Blits declaration and its attachment in rejecting her conflict of interest argument. She also submits that there was no substantial evidence that the City Attorney's office had complied with its policy of establishing screens.

We address Richardson's challenges out of order, beginning with her statute of limitations claims.

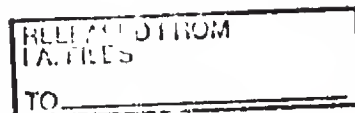
B. The CLETS and Check Fraud Charges Were Timely Filed

1. The Public Safety Officer's Procedural Bill of Rights Act

The statute of limitations governing the CLETS and check fraud charges is set forth in the Public Safety Officer's Procedural Bill of Rights Act (Gov.Code, § 3300 et seq.), which was created by the Legislature to stop abusive practices by police departments against police officers. (Gov.Code, § 3301.) As our colleagues in Division Four described it in *Breslin*, *supra*, 146 Cal.App.4th at pp. 1074-1075, 55 Cal.Rptr.3d 14:

"The act is primarily a labor relations statute, cataloging the basic rights and protections that must be afforded to all peace officers by the public entities that employ them. [Citations.] Effective law enforcement depends on the maintenance of stable public employer-public safety employee relations—relations that benefit the public as well as public safety officers. [Citations.]

"One protection codified in section 3304 is the speedy adjudication of conduct that could result in discipline. [Citations.] The act provides that disciplinary charges against a public safety officer must be filed within one year, subject to certain statutory exceptions. It seeks to balance competing interests—the public interest in maintaining the integrity and efficiency of the police force with the individual officer's interest in receiving fair



treatment." (See also *Parra v. City and County of San Francisco* (2006) 144 Cal.App.4th 977, 988–989, 50 Cal.Rptr.3d 822 (*Parra*) [describing the act and its purpose])

As noted, Government Code section 3304 provides for a one year statute of limitations, which begins to run when the misconduct is discovered. (Gov Code, § 3304, subd. (d)(1); *Maya v. City of Los Angeles* (2008) 43 Cal.4th 313, 321, 74 Cal.Rptr.3d 891, 180 P.3d 935.) It is, however, subject to certain tolling and extension provisions. As applicable here, Government Code section 3304, subdivision (d)(2)(A) provides for tolling during a criminal investigation: "If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period." (See also *Parra*, supra, 144 Cal.App.4th at p. 989, 50 Cal.Rptr.3d 822.) Indeed, tolling under such circumstances is mandatory: "The act requires the tolling of the one-year statute of limitations while a criminal investigation is pending if the misconduct is the subject of that investigation." (*Breslin*, supra, 146 Cal.App.4th at p. 1078, 55 Cal.Rptr.3d 14.)

2. Standard of Review

Legal issues involving the interpretation of Government Code section 3304 are reviewed de novo. (*Breslin*, supra, 146 Cal.App.4th at p. 1077, 55 Cal.Rptr.3d 14.) As to factual issues, "we determine whether the record provides substantial evidence supporting the trial court's factual findings. [Citations] Applying the substantial evidence test on appeal, we may not reweigh the evidence, but consider that evidence in the light most favorable to the trial court, indulging in every reasonable inference in favor of the trial court's findings and resolving all conflicts in its favor. [Citations.] The question on appeal is whether the evidence reveals substantial support—contradicted or uncontradicted—for the trial court's conclusion that the weight of the evidence supports the commission's findings of fact. [Citation.] We uphold the trial court's findings unless they so lack evidentiary support that they are unreasonable. We may not uphold a finding based on inherently improbable evidence or evidence that is irrelevant to the issues before us. [Citation.]" (Id. at pp. 1077–1078, 55 Cal.Rptr.3d 14.)

Applying this standard of review here, we conclude that substantial evidence supports Judge Quidachay's determination that the CLETS and check fraud allegations were not barred by the statute of limitations.

3. The CLETS Violations

As detailed above, Richardson's CLETS violations came to SFPD's attention on February 1, 2007, when Dwayne Johnson filed a complaint with the OCC. On February 20, the complaint was forwarded to Lieutenant Lynette Hogue, Commanding Officer of MCD. On March 15, MCD requested that SID conduct a criminal investigation into the alleged CLETS violations, and SID received the file on March 22. On May 7, Lieutenant Mahoney of SID returned the file to MCD for administrative action, advising that SID was not conducting a criminal investigation. Based on the foregoing records, both the Commission and Judge Quidachay found that the criminal investigation did not conclude until May 7, 2007, and that the statute of limitations was tolled from the time SID received the matter on March 22 until May 7, 2007, a period of 53 days. As such, the statute of limitations did not run until April 14, 2008, rendering the CLETS charges filed on March 13, 2008 timely.

According to Richardson, this conclusion was wrong because the evidence showed that SID actually never performed a criminal investigation. As a result, her argument runs, the tolling provision of Government Code section 3304, subdivision (d)(2)(A) did not apply at all and the statute of limitations ran on February 21, 2008, one year after MCD received notice of the allegations. This was 21 days before the SFPD filed the amended complaint asserting the CLETS specifications. Alternatively, she argues that if the statute of limitations was tolled at all, it was tolled for only the seven days between March 15, 2007, when the file was referred to SID, and March 22, 2007, when SID received it and decided not to investigate. Even assuming a one-week tolling, the charges, according to Richardson, were still 12 days too late.

In claimed support of her argument that SID did not conduct an investigation, and thus there was no tolling, Richardson relies on three documents. The first is the May 7, 2007 Mahoney memorandum returning the file to MCD with the comment, "There is no criminal investigation being conducted on the matter of unauthorized computer usage by Insp. Marvella L. Richardson # 1246." Richardson also relies on a January 8, 2008 memorandum from Lieutenant Hogue of MCD to Chief Fong advising: "On March 22, 2007, the Special Investigations Unit received and reviewed the information contained in the OCC complaint and determined that they would not conduct a criminal investigation at this time." 11 According to Richardson, the memorandum "confirms that the SID only looked at the OCC complaint, and it dispels the myth that the SID waited until May 7, 2007 to make a determination not to do a criminal investigation. The SID made the decision never to investigate by March 22, 2007—only seven days after MCD initially sent the materials to SID on March 15, 2007." Lastly, Richardson cites a "Chronological Record of Investigation" maintained by MCD which contains the following entry summarizing the Mahoney memorandum: "Lieutenant Dan Mahoney, SID, wrote a memorandum stating that SID will not conduct criminal investigation re: Inspector Richardson's alleged CLETS violation." We reject Richardson's reading of the record, and conclude instead that the documents provide substantial evidence for Judge Quidachay's finding that the CLETS charges were timely.

Most significantly, and contrary to Richardson's argument, the Mahoney memorandum supports Judge

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Quidachay's conclusion that SID investigated the CLETS abuse into May, when it returned the file to the MCD. It advised MCD that Richardson was under investigation by the Antioch PD for check fraud and it was initially suspected that the unauthorized CLETS searches might have been related to the check fraud. But the check fraud did not surface until after March 22, 2007, the date Richardson claims SID decided not to investigate the computer queries. It necessarily follows that SID's investigation could not have been completed by the date Richardson asserts, and absolutely refutes her claim that SID did not conduct any investigation into the improper CLETS charges. Instead, reason dictates that as the check fraud came to the attention of the SFPD by early April, SID investigated the CLETS searches and any possible connection to the check fraud in April. By May 7, as supported by the Mahoney memorandum, SID concluded there was no connection, and returned the CLETS file to MCD for administrative action.

Further, we—like Judge Quidachay—reject the notion that the MCD memorandum to Chief Fong controls when the SID investigation concluded. A memorandum prepared by MCD in January 2008 suggesting that SID received the file on March 22, 2007, and determined that very same day that it would not conduct a criminal investigation was not as reliable as the contemporaneous memorandum written by SID actually closing the criminal investigation. As Judge Quidachay aptly stated, "Based on the fact that the first memorandum was written by a member of SID, the dates from this memorandum [May 7, 2007] are used in the determination of this matter. While the second memorandum [January 8, 2008] may indicate that the SID investigation concluded on March 22, 2007, this second memorandum was written not by a member of SID, but by a member of MCD, a separate department. Furthermore, the second memorandum was written eight months later on January 8, 2008. It defies reason to believe that a member of a separate department who is interpreting a document from outside its own department is better able to ascertain the conclusion of an investigation within that separate department, particularly when the document is not composed until several months later." The third document Richardson cites—MCD's "Chronological Record of Investigation"—is unpersuasive for the same reason.

In sum, the record contains substantial evidence to support the determinations by the Commission and Judge Quidachay that the statute was tolled from March 22, 2007 when SID received the file and opened its investigation, to May 7, 2007 when SID closed that file. The Department received the CLETS-related complaint on February 20, 2007, and filed charges against Richardson one year and 22 days later, on March 13, 2008. Accounting for the 53-day period when the limitations period was tolled, the CLETS charges were timely.

4. The Check Fraud Charges

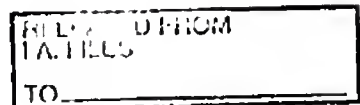
The check fraud allegations against Richardson came to the SFPD's attention by April 9, 2007. At that time, the Antioch PD was conducting an investigation, which lasted until May 2007, at which point it turned the investigation over to the Brentwood PD.

On September 14, 2007, Brentwood PD investigating officer Detective Estrada prepared a report in which he requested that "this case be forwarded to the District Attorney's Office for review and issuance of a complaint against the three respondents." As to Richardson in particular, he recommended charging her with seven counts of grand theft and seven counts of fraud. In the report, the case status was initially noted as "Closed," although on November 1, 2007, it was apparently reopened for follow-up investigation into the original checks for forgery evaluation.

On December 18, 2007, Estrada prepared a supplemental report noting that he was unable to obtain the original checks and, as such, his ability to evaluate the records for forgery was limited. The case status was noted as "Closed." Estrada's supervisor approved the report the following day.¹³

On December 16, 2008, the Brentwood PD faxed a document titled "Request for Prosecution" to the SFPD. The document, signed by a Contra Costa County deputy district attorney the previous day, advised that the district attorney's office declined to prosecute Richardson due to "Insufficient Evidence." The accompanying fax cover sheet noted, "Per your request." Judge Quidachay concluded that the district attorney's consideration of possible criminal prosecution tolled the limitations period until it communicated its final decision on December 16, 2008.

Richardson concedes that the statute of limitations was tolled for eight months while the Antioch PD and then the Brentwood PD investigated the matter. She contends, however, that the tolling ended on December 19, 2007, when Detective Estrada prepared his supplemental report and "closed" the file, not on December 16, 2008 when the SFPD was advised that Richardson would not be prosecuted. As she describes it, "That note was written almost one year after the [Brentwood PD] closed its investigation. It only says that there was 'insufficient evidence' to prosecute. There is no evidence that any district attorney ever conducted a criminal investigation after the [Brentwood PD] closed its files on December 19, 2007. The note from the district attorney only confirms that there was no prosecution and appears to have been written at the behest of the SFPD. The facsimile cover sheet that was attached to the note and addressed to the SFPD says, 'per your request.'" According to Richardson, this was insufficient to toll the statute of limitations, because Government Code section 3304, subdivision (d)(3)(A) requires that there be an "actual and active investigation or prosecution" pending in order for the tolling to apply. In support of Richardson's proposed "actual and active



investigation" requirement, she relies on Breslin, *supra*, 146 Cal.App.4th 1064, 55 Cal.Rptr.3d 14. Breslin is not as helpful as Richardson would have it.

The facts of Breslin were as follows: On May 13, 1998, four police officers were surveilling a known fugitive. Two of them fired into the car in which he was attempting to flee, killing an innocent passenger. The officers claimed they had acted in self-defense. Two criminal investigations followed: one by the OCC in response to a citizen complaint filed on June 10, 1998, and the other by the district attorney, which commenced on the day of the shooting and concluded on February 10, 1999. Ultimately, the two officers who shot at the vehicle were charged with murder and attempted murder, and all four officers were the subject of disciplinary action. The trial court concluded that the tolling and extension provisions set forth in four different subdivisions of Government Code section 3304 (including the criminal investigation provision) combined to toll the statute of limitations such that charges filed over four years after the incident were timely. (Breslin, *supra*, 146 Cal.App.4th at p. 1069-1073, 55 Cal.Rptr.3d 14.)

The Court of Appeal reversed, concluding that the charges were untimely. But not on any ground that provides solace to Richardson. As to the criminal investigation tolling provision at issue here, the Court of Appeal simply held that it did apply: "The facts relating to the criminal investigation tolling provision are undisputed.

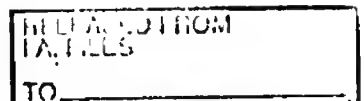
From May 13, 1998, until February 10, 1999, the district attorney conducted a criminal investigation into the conduct of all four of the officers involved in this shooting incident. The same incident was the subject of the June 10, 1998 complaint to the OCC. As all the requirements of the criminal investigation tolling provision are met, we find that this statute required that the one-year period for filing disciplinary charges against each of the four officers be tolled from the time that the OCC investigation began on June 10, 1998, through February 10, 1999, when the criminal investigation formally ended." (Breslin, *supra*, 146 Cal.App.4th at pp. 1078-1079, 55 Cal.Rptr.3d 14.) Nowhere in the discussion of the criminal investigation tolling provision is there any mention of an "actual and active investigation" requirement, a point conceded by Richardson, who observes that "there was no discussion about the amount or quality of evidence necessary to support a decision about the tolling of the statute of limitations based upon a criminal investigation. It was not an issue."

Faced with this deficiency, Richardson turns to another provision at issue in Breslin—the "multiple employee extension" set forth in Government Code section 3304, subdivision (d)(2)(D).¹⁴ As to that, the Breslin court concluded that the statutory language "requires that the evidence supporting the commission's decision establish that the city was actually and actively investigating multiple employees." (Breslin, *supra*, 146 Cal.App.4th at p. 1086, 55 Cal.Rptr.3d 14.) Richardson invites us to "interpret the criminal investigation and criminal prosecution tolling provision in Government Code § 3304(d)(2)(A) the same way." We decline the invitation.

As a preliminary matter, we note that the Breslin court offered no authority for its "actual and active" requirement. Most definitely, it was not derived from the statutory language, which offers no guidance on the nature of the investigation that is sufficient to trigger the tolling provision, other than that it must "involve[] more than one employee and require[] a reasonable extension." (Gov.Code, § 3304, (d)(2)(D).) Nor does the language of the criminal investigation tolling provision suggest such a requirement, as it simply requires that a criminal investigation must be "pending."

More significantly, the imposition of a requirement that the investigation must be "actual and active" would simply be unworkable. As respondents correctly explain in their brief, "Richardson's proposed 'active investigation' standard would require a police department's disciplinary investigators, and later the courts, to monitor and oversee each step of a separate criminal unit's investigation to determine whether the investigation is sufficiently 'active' to invoke section 3304(d)(2). That would be particularly unworkable where, as here, the criminal investigation was conducted in another county whose district attorney's office may be unwilling to provide detailed activity reports on a continuous basis. [¶] Moreover, Richardson's proposed standard is uncertain because it leaves unanswered the central question of how much an investigator must do, and how frequently, to maintain an 'active' investigation that triggers tolling. Richardson's proposal would put police departments and the courts in the position of having to determine whether various acts—such as a district attorney's review of documents, internal deliberations, or assessments whether to proceed with a prosecution—constitute a sufficiently 'active' investigation. And her theory would similarly require the Department and the courts to figure out what it means for a criminal investigation to move quickly enough—whether the investigators must take 'active' steps daily or monthly or at some other frequency to implicate the tolling provision. In short, a police department considering disciplinary action would have no way to determine reliably whether a particular level of investigatory activity is adequate to trigger tolling under section 3304(d)(2)." In sum, Richardson's proposed standard is untenable.

But even if we were to accept Richardson's position that Government Code section 3304, subdivision (d)(2)(A) and Breslin require that the investigation be "active and actual," we would still uphold Judge Quidachya's finding that the check fraud charges were timely. We, like Richardson, were unable to locate any case law specifically addressing the burden to prove tolling under the Public Safety Officer's Procedural Bill of Rights Act. But it is irrelevant which side bore the burden of proving tolling here, because even if we were to assume that it was the SFPD's burden, we could conclude that it produced substantial evidence that Richardson's conduct was



the subject of a pending criminal investigation until December 15, 2008—the day the “Request for Prosecution” from the Contra Costa County District Attorney’s office was signed advising that it was declining to prosecute due to insufficient evidence. A reasonable inference can be drawn from that document that between the time the Brentwood PD recommended prosecution and when the SFPD received notice that the district attorney would not be prosecuting Richardson, the district attorney’s office was conducting its own investigation of the incident, an investigation that culminated in its decision not to prosecute. And under the applicable standard of review, we must draw that inference and construe the evidence in favor of Judge Quidachay’s ruling. (Breslin, *supra*, 146 Cal.App.4th at p. 1078, 55 Cal. Rptr.3d 14.) Richardson, in turn, produced no evidence whatsoever that between the time the Brentwood PD concluded its investigation and forwarded the matter to the district attorney on December 19, 2007, and the district attorney’s December 15, 2008 notification that it was declining to prosecute no investigation was conducted. She did not, as she claims, make “a prima facie showing that the statute of limitations expired.”

C. The Antioch Incident

1. The Antioch Specifications Were Properly Sustained Based on Richardson’s Conduct During the Antioch PD’s Second Entry Into Her Home

Turning to the specifications arising out of the Antioch Incident, we first address Richardson’s argument that her career should not have been terminated for not showing her hand during the Antioch PD’s second entry into her home. This was so, she submits, because the officers were in her home unlawfully and, accordingly, evidence of what happened after the officers entered her home should have been excluded. Richardson made multiple unsuccessful attempts during the disciplinary proceeding to exclude evidence of what happened during the second Antioch PD entry on the ground that the entry was an illegal search in violation of the Fourth Amendment. She repeated these efforts during the mandamus proceeding before Judge Quidachay who, like the Commission, concluded that the exclusionary rule did not apply in that civil proceeding. We agree with the Commission and Judge Quidachay.

The exclusionary rule, which provides for the suppression of unlawfully obtained evidence, applies primarily in criminal cases “to insure that the law enforcement officers observe the proscriptions of the Fourth Amendment.”

(*In re Robert P.* (1976) 61 Cal App 3d 310, 321, 132 Cal.Rptr. 5.) As Richardson concedes, it does not apply in most administrative hearings (*Gikas v. Zolin* (1993) 6 Cal.4th 841, 859, 25 Cal.Rptr.2d 500, 863 P.2d 745) and, in fact, it is rarely applied in civil actions absent statutory authorization. (*Gordon J. v. Santa Ana Unified School Dist.* (1984) 162 Cal App 3d 530, 542, 208 Cal.Rptr. 657.)

In *Emalie v. State Bar* (1974) 11 Cal.3d 210, 229, 113 Cal.Rptr. 175, 520 P.2d 991, the California Supreme Court stated that with regard to administrative proceedings (in that case, the Disciplinary Board of the State Bar of California) “a balancing test must be applied in such proceedings and consideration must be given to the social consequences of applying the exclusionary rule and to the effect thereof on the integrity of the judicial process.”

Courts have generally construed *Emalie* to stand for the proposition that the exclusionary rule may apply in an administrative proceeding under one of the following three narrow circumstances: (1) applying the rule would deter future constitutional violations; (2) the administrative proceeding has a close identity to the objectives of law enforcement; or (3) the social consequences of the exclusionary rule counsel in favor of its application.

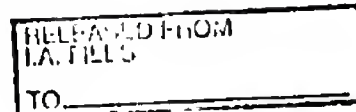
(See also *Gordon J. v. Santa Ana Unified School Dist.*, *supra*, 162 Cal.App.3d at p. 543, 208 Cal.Rptr. 657.)

Notwithstanding these considerations, “[C]ourts following *Emalie* have uniformly declined to apply the exclusionary rule in civil proceedings where the rule would not deter the unlawful search at issue.” (*Pinkelstein v. State Personnel Bd.* (1990) 218 Cal.App.3d 264, 270, 267 Cal.Rptr. 133.) In the instant case, the circumstances dictate against the application of the rule.

Excluding evidence of what occurred after the Antioch PD’s illegal entry into Richardson’s home would serve no deterrent purpose. The illegal search was conducted by the Antioch Police Department. The disciplinary charges against Richardson were brought by the San Francisco Police Department. The SFPD played no role in the illegal entry. As Judge Quidachay correctly observed, “[P]unishing the SFPD would not deter the Antioch Police Department (‘APD’) from future violations.” 15

Nor does the second exception apply. The administrative proceeding involved disciplinary charges against a San Francisco police officer. It was a personnel matter concerning Richardson’s misconduct completely unrelated to the purposes of law enforcement.

Finally, the social consequences of the exclusionary rule disfavor its application here. Police officers have an obligation to uphold the laws of the State of California and arrest those that violate them. In fulfilling this obligation, they must conduct their personal lives in a manner that is beyond reproach, an obligation that would be undermined by the invocation of the exclusionary rule under the facts of this case. (See *Talmo v. Civil Service Com.* (1991) 231 Cal.App.3d 210, 231, 282 Cal. Rptr. 240 [“A deputy sheriff’s job is a position of trust and the public has a right to the highest standard of behavior from those they invest with the power and authority of a law enforcement officer. Honesty, credibility and temperament are crucial to the proper performance of an officer’s duties.”]) The integrity of the SFPD’s personnel is “vital to effective law enforcement,” and disrespectful and danger-inciting behavior should not be tolerated. (*Haney v. City of Los Angeles* (2003) 109



Cal.App.4th 1, 12, 134 Cal.Rptr.2d 411 ("Police officer integrity is vital to effective law enforcement. Public trust and confidence in the department as an institution and in individual officers do not exist otherwise."); see also *Governing Board v. Metcalf* (1974) 36 Cal.App.3d 546, 550-551, 111 Cal.Rptr. 724 [police officer's testimony of what occurred during an unlawful surveillance was admissible at a teacher's dismissal proceeding because the Education Code required that the teacher be a personal example for the students].)

Given these circumstances, Judge Quidachay properly concluded that the rule did not apply.

Failing to persuade us that the exclusionary rule should preclude consideration of what happened during the second entry, Richardson alternatively submits that she should not have been terminated for her conduct during that entry because the police officers were in her home unlawfully and she therefore could not have obstructed a peace officer in the discharge of his or her duty. As she explains it, specification no. 2, which charged her with "[r]esisting, delaying or obstructing an officer in the discharge or attempt to discharge any duty of his or her office or employment," was derived from Penal Code section 148, subdivision (a).¹⁶ A citizen does not have to obey an officer who is acting illegally, she asserts, and any arrest for obstructing a police officer is unlawful where the officer him or herself was not acting lawfully. She thus reasons that because the Antioch police officers were in her house illegally, she could not have obstructed them in the performance of their duties. Instead, she claims she "was well within her right to non-violently resist. She had no duty to show her hands."

She did not violate Penal Code § 148, and the SFPD had no cause to punish her for lawfully and peacefully exercising her Constitutional rights. She did nothing improper. She was not violent, aggressive, or rude. She only asked "why are you guys here?" She tried to wake up her girlfriend, and she responded to Sgt. Fushman's (sic) questions about the location of her dogs."

Richardson's entire argument on this issue, however, misses the point. Neither the Commission nor Judge Quidachay made any findings that she violated Penal Code section 148. Rather, the findings were directed at SFPD's General Orders, which hold officers to a standard of conduct distinct from the Penal Code. Rule 9 of the SFPD's General Order 2.01 prohibits any behavior that "reflects discredit upon the Department" as "unofficer-like conduct subject to disciplinary action." The evidence of what transpired during the second entry demonstrated that Richardson engaged in unofficer-like conduct, substantial evidence that supported the Antioch specifications.

Lastly, Richardson challenges the sustaining of the Antioch specifications to the extent that they were grounded in her conduct during the first entry—namely her use of profanity in calling Officer Martinez "broke ass security" and telling the officers to "fuck off" as she slammed the door shut behind them. She argues that "the superior court improperly upheld Insp. Richardson's termination based, in part, upon deference to alleged findings about profanity even though the police commission never actually made findings on that issue." Further, she contends that her statements were constitutionally protected. Because we conclude the specifications concerning the Antioch Incident were amply supported by the evidence of what occurred during the second entry, we need not address these arguments.

D. Termination Was Neither Excessive Nor An Abuse of Discretion

Richardson contends that as to both the Antioch Incident and the CLETS violations, it was excessive and an abuse of discretion to terminate her from her law enforcement career.¹⁷ Because we conclude that all specifications were properly upheld, we need not determine whether termination for either the Antioch or CLETS specification alone was a proper exercise of discretion. That being said, we note with approval the Commission's observation that the check fraud charges alone justified immediate termination.

E. There Was No Conflict of Interest

Richardson's final challenge concerns the Commission's alleged conflict of interest. She contends Judge Quidachay erred in rejecting her claim that she was deprived of a fair trial because the City Attorney's office advised the Commission throughout the evidentiary proceeding, while at the same time actively defending Richardson's civil case against the SFPD, a case that, as Richardson describes it, involved the same facts, evidence, and issues that were before the Commission. Her argument is two-fold. First, she contends that the evidence upon which Judge Quidachay relied to reach his conclusion—the declaration of Deputy District Attorney Blits and its attachment—was not admissible during the writ proceeding. Second, she contends that even if the evidence were admissible, it did not establish that the proper screens were in place. Both arguments lack merit.

As a general rule, a hearing on a writ of administrative mandamus is conducted solely on the record of the proceeding before the administrative agency. Code of Civil Procedure section 1094.5, subdivision (e), however, allows the trial court to consider evidence not presented at the administrative hearing if the evidence addresses the petitioner's claim that he or she was denied due process or a fair hearing. (*Nash v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 485, 22 Cal.Rptr.3d 772; see also *Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 735, 88 Cal.Rptr.3d 610, 199 P.3d 1142 [in opposition to respondent's writ petition in the superior court, agency submitted a declaration describing the agency's internal structure and operating procedures].) But the trial court may only admit relevant evidence that, in the exercise

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of reasonable diligence, could not have been produced at the administrative hearing. (Nasha, supra, at p. 485, 22 Cal Rptr 3d 772.) Such was the case here.

As noted above, during the evidentiary hearing, counsel for Richardson expressed concern that the City Attorney's office had a conflict of interest because it was advising the Commission in the case against Richardson, while at the same time representing the SFPD in Richardson's civil case. Commissioner Onek responded to this concern, "Let me say this, I understand your concern, Mr. Cutlip. There is a wall between different parts of the city attorney's office when they have potential conflicts like this." When pressed by Mr. Cutlip for "some kind of documentation of this wall," the Commissioner declined the request, saying "[T]his is not the venue for this concern." Mr. Cutlip persisted, asking that the Commission recuse itself from the case, which request Commissioner Onek denied. Given that Commissioner Onek was clearly not inclined to entertain any further discussion on the issue, let alone any documentary evidence, it stands to reason that the City Attorney's office could not have submitted the Blits declaration or the attached memorandum during the administrative proceeding.¹⁸ Accordingly, because the Blits declaration was relevant to Richardson's conflict of interest claim in the mandamus proceeding and because it could not in the exercise of reasonable diligence have been produced at the disciplinary proceeding, Judge Quidachay properly considered the evidence in the mandamus proceeding. With that, we turn to the question of whether the declaration provided substantial evidence that proper screens were followed, a question we answer in the affirmative. (See *Clark v. City of Hermosa Beach* (1996) 48 Cal.App 4th 1152, 1169, 56 Cal.Rptr.2d 223 [when challenging fairness of administrative proceeding, trial court findings on matters of fact are conclusive on appeal if supported by substantial evidence].)

As referenced above, in opposition to Richardson's motion for administrative writ of mandamus, where she presented the same conflict of interest argument, Deputy District Attorney Blits submitted a declaration in which she testified as follows:

"2. I am a member of the City Attorney's Office's Government Team and have been a member of that team since approximately 1998. Since approximately 2008, one of my regular duties has been to advise the City and County of San Francisco's Police Commission on various adjudicatory matters, including disciplinary proceedings. Because of my role advising the Police Commission and other adjudicatory bodies, I have closely tracked developments in California case law regarding the use of 'due process screens' in public law offices like the City Attorney's Office. I have worked closely with the City Attorney's Office's Ethics and Elections Team to develop protocols to ensure that the Office uses appropriate screens in all adjudicatory matters.

"3. To ensure that attorneys in the Office can easily comply with the rules and procedures mandated by the courts, the City Attorney's Office has adopted 'standing' screens that create default assignments for attorneys involved in all administrative adjudicatory proceedings, including disciplinary hearings before the Police Commission.

"4. The November 13, 2008 memorandum was sent to every attorney in the office and a copy of it is maintained on a shared electronic drive that anyone in the office can access. Attorneys in the office abide by these 'standing' screens unless the office changes the assignments for a particular matter by adopting a separate screen memorialized in writing. The City Attorney's Office has subsequently amended the screens set forth in this memorandum to reflect staffing and policy changes, but in the November 13, 2008 memorandum and in every subsequent version, I have always advised the Police Commission in disciplinary proceedings. Similarly, in each version of the memorandum, the City Attorney's Office Labor Team, including Deputy City Attorney Lawrence Necimovich, has always advised the Police Department in these proceedings.

"5. With respect to Inspector Marveta Richardson's hearings before the Police Commission in 2009, I was the sole deputy city attorney that advised the Police Commission. Throughout the evidentiary phases, in which the parties examined witnesses and introduced evidence, I advised and consulted with Commissioner David Onek on a regular basis. At subsequent proceedings, in which the Police Commission made its determinations and findings, I similarly advised all members of the Police Commission.

"6. During those hearings I did not discuss the Richardson proceeding, apart from some possible scheduling matters, with any member of the City Attorney's Office's Labor Team, including Deputy City Attorney Lawrence Necimovich. Likewise, I billed my time spent on Richardson hearings to a separate billing number and maintained my separate own electronic and paper files on the matter."

Attached to Blits's declaration as Exhibit A was a November 13, 2008, partially redacted memorandum memorializing the City Attorney's office's due process screens.¹⁹ In pertinent part, the memorandum provided, "[W]hen the Office establishes a due process screen, members of each of the separate teams described below, including their support staff and interns, must refrain from communicating with members of the other teams regarding the matter being adjudicated, except for communications otherwise permissible between counsel representing a party before a court or tribunal and staff of that court or tribunal. All office files in these matters maintained by one team, including electronic files and billing records, shall be kept separate from the files maintained by the other team."²⁰

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In short, the evidence demonstrated that in addition to the general screening practices detailed in the "Standing Due Process Screens" memorandum, Blits was the sole attorney from the City Attorney's office who advised Commissioner Onck and the full Commission during the administrative proceeding that led to Richardson's termination. Judge Quidachay concluded that the evidence demonstrated that "proper screens exist and were maintained during each of the proceedings in question." We agree that this constituted substantial evidence that the City Attorney's office adhered to the proper screens.

Despite Blits's unequivocal testimony that the City Attorney's office adhered to the screens in this case, Richardson contends that there was no substantial evidence that the office complied with the screening procedures. Her reasoning is as follows: "Ms. Blits' declaration admits there was contact and demonstrates that Ms. Blits had information about the tort action while she was advising the Police Commission. [¶] The declaration says, '[d]uring [the Police Commission] hearings I did not discuss the Richardson proceeding, apart from some possible scheduling matters, with any member of the City Attorney's Office's Labor Team, including Deputy City Attorney Lawrence Hecimovich.' [Citation.] Why were they [sic] coordinating scheduling during the police commission hearings? Their discussions of 'possible scheduling matters,' strongly indicates [sic] that Ms. Blits was aware of and had information about Insp. Richardson's related tort claims while she was actively advising the Police Commission about matters that would affect the tort claims."

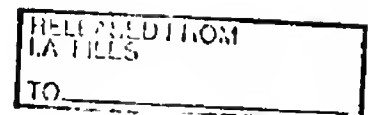
Aside from the fact that it is arguably acceptable for public attorneys in a dual representation situation to communicate on matters of "procedure or practice . . . that [are] not in controversy" (see Gov. Code, § 11430.20; *Morongo Band of Mission Indians v. State Water Resources Control Bd.*, supra, 45 Cal.4th at p. 736, 88 Cal.Rptr.3d 610, 199 P.3d 1142), such communications do not remotely suggest, let alone "strongly indicate[]," that Blits learned of any information about Richardson's tort claims. This claim is nothing more than bluster speculation that is directly contradicted by the evidence in the record—Blits's declaration.

DISPOSITION

The order and judgment denying Richardson's petition for writ of administrative mandamus is affirmed.

FOOTNOTES

1. CLETS—the California Law Enforcement Telecommunication System—is a confidential law enforcement database that allows police officers to access an individual's criminal history, as well as driver's license and vehicle registration information.
2. Jackson's first name appears in the record as both Dwayne and Dunne.
3. MCD investigates allegations of police misconduct for violations of the SFPD's General Orders governing officer conduct. SID is a separate unit responsible for investigating and prosecuting potential criminal conduct by police officers.
4. Metz, though 32 years old at the time, had a diminished mental capacity, was easily influenced and manipulated, and was incapable of handling his own finances.
5. Vanderpool testified at the Commission's evidentiary hearing, while Martinez was on disability leave and did not testify.
6. The implication being that Richardson, a Black woman, would not own a five-bedroom home in a nice Antioch neighborhood.
7. Vanderpool acknowledged that his police report failed to mention anything about Richardson being uncooperative, calling Martinez "broke ass security," or swearing when she slammed the door.
8. Nolan Satterfield, one of Richardson's houseguests, also testified that Martinez questioned Richardson's ownership of the house, called her names, and was rude to her.
9. In a federal civil rights action against the City of Antioch, the Antioch PD, and the officers involved in the incident, the court found that the second entry into Richardson's home constituted an illegal search in violation of the Fourth Amendment. (*Richardson v. City of Antioch* (2010) 722 F.Supp.2d 1133, 1143.) All charges against Richardson, Nelson, and others were subsequently dismissed.
10. Specifications 1 and 5 involved other alleged misconduct by Richardson. The Commission did not sustain those specifications, and they are not at issue here.
11. The memorandum was "from" Lieutenant Hogue, but identified Sergeant Edward Santos, Jr. as the investigating officer. During the evidentiary hearing, counsel for Richardson sought to examine Santos concerning the SID investigation. Commissioner Onck refused to allow it, ruling the testimony "irrelevant" because the statute of limitations issue had already been submitted on the papers. This, Richardson complains, deprived her of "additional evidence that the statute of limitations was tolled, if at all, for no more than seven (7) days, from March 15, 2007 to March 22, 2007." There was no error in this evidentiary ruling.



since the statute of limitations issue was already fully briefed and pending before the Commission.

12. The year 2008 was a leap year.

13. Richardson claims that "By that time, [Estrada] was no longer recommending that the case should be forwarded to the District Attorney [sic] office." The supplemental report said no such thing.

14. At the time of the Breslin opinion, the extension was set forth in subdivision (d)(4). Government Code section 3304 was amended in 2009, when former subdivisions (d)(1)–(d)(8) were redesignated (d)(2)(A)–(d)(2)(II).

15. As noted above (see fn. 10), the Antioch police were in fact "punished," as the charges against Richardson and her houseguests were subsequently dismissed.

16. Penal Code section 148, subdivision (a) provides in pertinent part: "Every person who willfully resists, delays, or obstructs any peace officer, in the discharge or attempt to discharge any duty of his or her office or employment, shall be punished by a fine, or by imprisonment in a county jail not to exceed one year."

17. No such argument is made concerning the check fraud charges, nor does Richardson argue that termination was an excessive punishment if all specifications are upheld.

18. Contrary to Richardson's assertion here, the City Attorney's office did not withhold the memorandum on confidentiality grounds during the evidentiary hearing, only to subsequently waive that privilege and introduce it during the writ proceeding, nor did it ever "refuse[]" to produce it.

19. As Blits testified in her declaration, the City Attorney's office "consider[ed] the memorandum privileged, but the office [was] waiving the privilege as needed to defend [Richardson's] allegations in this litigation." She further explained that the redacted portions of the memorandum "describe[d] the office's screens for other adjudicatory matters unrelated to this litigation."

20. The memorandum was addressed to then City Attorney Dennis Herrera and memorialized "due process screens for quasi-judicial matters in which the City Attorney's Office represents or advises an adjudicatory City body while also representing or advising a City department or official appearing before that body." While not the same procedural posture as Richardson's case, Blits's declaration made clear that the same due process screens were applied here. (See *Howitt v. Superior Court* (1992) 3 Cal.App.4th 1575, 1586, 5 Cal.Rptr.2d 196 ["many of the cases which raise due process concerns about these dual representation issues focus on the more obvious problem of the same lawyer acting as both advocate and adviser to the decision-maker. [but screens are equally effective where] different lawyers in the same office perform the two functions."])

Richman, J.

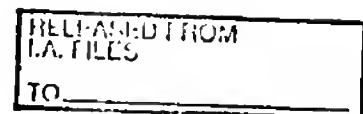
We concur: Kline, P.J.; Haerle, J.

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COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 6, 2015

TO: William D. Gore, Sheriff

FROM: Jeffrey S. Duckworth, Lieutenant
Family Protection Detail

**Disciplinary Recommendation and Rationale for Deputy Sheriff Mark A. Karo-#5052
Internal Affairs Case 2014-108.1**

In preparation for this Recommendation and Rationale, I read or reviewed the following documents and listened to the recorded audio interviews:

- The IA-1 Complaint.
- Synopsis, Analysis and Conclusions by Sergeant Ken Jones.
- Witness list and Investigation by Sergeant Ken Jones.
- Recorded interviews of all witnesses and accused interviews.
- Addendum Report and recorded interview.
- Detective Karo's Employee Performance Reports.
- Detective Karo's prior discipline record.

RECOMMENDATION:

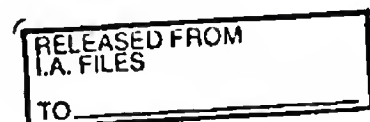
I have read the investigation, associated materials, and listened to the recorded interviews that Internal Affairs Sergeant Ken Jones prepared. Sergeant Jones determined Detective Mark Karo violated the following Departmental Policy and Procedure Sections:

- 2.4—Unbecoming Conduct
- 2.30 Failure to meet Standards
- 2.41—Departmental Reports

During my review of this case I determined there was a preponderance of evidence to conclude that Detective Mark Karo also violated the following Department and Procedure Section:

- 2.6—Conformance to Laws

As it relates to California Penal Code section 11166(a)



The rationale for my additional finding is contained in this report. I concur with Sergeant Jones conclusions and findings. Based on the nature of the conduct, and after considering factors in mitigation and aggravation, I recommend Detective Karo be terminated from employment.

RATIONALE:

Sergeant Jones' investigation was thorough, fair, and there is a preponderance of evidence to believe the alleged misconduct occurred. In reviewing the investigation, I found no evidence of bias or ill will by Sergeant Jones. Detective Karo's misconduct was independent of any verbal or written order by a Department supervisor.

On June 10, 2014, I received a document from [REDACTED] alleging there were substandard investigations being conducted by detectives in the Child Abuse Unit. [REDACTED] allegations led to a case audit for all detectives within the Child Abuse Unit. Most of the detectives in the unit were conducting adequate investigations. However, the audit confirmed what [REDACTED] alleged. Three detectives' investigations were substandard including Detective Karo, [REDACTED]. On July 9, 2015, the Internal Affairs Unit opened an administrative investigation, case number 2014-108.1, based upon the audit findings.

After reviewing the Internal Affairs investigation in this case, I scheduled a pre-disciplinary hearing with Detective Karo. His Attorney, Ms. Fern Steiner, contacted me to arrange the hearing. On June 3, 2015, at about 10:32 a.m., I held a pre-disciplinary hearing in the Central Investigations Division conference room at the John F. Duffy Administrative Center located at 9621 Ridgehaven Court in San Diego. Detective Karo and Ms. Steiner were present. Prior to the hearing, I provided Ms. Steiner and Detective Karo a copy of the case file for review and gave them time to review the case in private. After Ms. Steiner reviewed the case with Detective Karo, she called me to begin the hearing.

Using a digital recorder, I recorded the hearing with Detective Karo and Ms. Steiner. Both were aware of the recording. I explained to Detective Karo that I concurred with Sergeant Jones' findings. I told Detective Karo that I believed discipline was warranted. I gave Detective Karo and Ms. Steiner an opportunity to provide mitigating factors.

Ms. Steiner said Detective Mark Karo arrived in the Child Abuse Unit in May of 2013. At that time, there was no training program set up. It was Ms. Steiner's understanding that there is a training program now, but Detective Karo did not have the benefit of such a program when he started in the unit. Ms. Steiner said Detective Karo did receive some child abuse investigative training, but he did not receive basic investigative training.

Ms. Steiner pointed out there were a lot of failures in the unit. In addition to inadequate training, Ms. Steiner said it was clear reports were not being returned to detectives for corrections. The reports were approved, thus Detective Karo assumed he was doing his work properly. The sergeants and the lieutenant in the unit were not telling detectives they were not meeting job standards. Ms. Steiner stated that sergeants and lieutenants are to make sure their subordinates

have the assistance needed to perform properly, and to hold them accountable to do their job. The situation that existed reinforced bad habits rather than correcting them.

Ms. Steiner highlighted one case in which Detective Karo failed to travel to Washington in order to contact the suspect. Ms. Steiner said Detective Karo believed there was no money for travel. She even pointed out that [REDACTED], during his Internal Affairs interview, was of the same mind set.

Ms. Steiner told me Detective Karo has learned his lesson, and he is doing a good job now. She told me that during the Internal Affairs interview, Detective Karo told Sergeant Jones that if someone had explained his shortcomings the way Sergeant Jones did, he would not be sitting in the position he was in. Ms. Steiner said the purpose of discipline was to let the employee know they did something wrong so the behavior will not be repeated.

Detective Karo said he accepted his mistakes after they were highlighted. He realized that some of his shortcomings were common sense, and he said sometimes people lose common sense. Detective Karo told me he took responsibility. He also stated he never intended to bring a dark cloud over the Department or unit. He had no intention of letting things go by to make less work for him.

Detective Karo's opinion was that basic investigations would better prepare someone with a traffic background to transition to more advanced investigations. Detective Karo believed basic investigations should be a stepping stone before one is assigned to a unit like the Child Abuse Unit.

Detective Karo summed up his hearing by stating he wishes to put the entire incident behind him and move forward. He did believe discipline was warranted, and he felt that a verbal warning or at most a written reprimand would be the appropriate level of discipline.

The hearing was completed at 10:43 a.m., and I attached the audio recording of the hearing to this report.

I reviewed Detective Karo's personnel file. Detective Karo met or exceeded standards, and I found no negative comments in his Employee Performance Reports. I checked with the Internal Affairs Unit and found that Detective Karo has no prior instances of formal discipline.

Ms. Steiner was correct when she said deficient reports were not being returned to Detective Karo for correction. I agree this fact did contribute to Detective Karo's failure. Ms. Steiner said Detective Karo assumed he was doing his work properly. I take issue with this statement. Detective Karo may have assumed certain aspects of his cases were proper (e.g. interviewing suspects on the telephone, or relying on Child Welfare Services too much). However, Detective Karo knew or should have known many of the actions he took were improper, substandard and amounted to misconduct. I will elaborate about those activities in this report.

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Internal Affairs Sergeant Ken Jones reviewed 13 of Detective Karo's cases that the internal audit deemed were flawed. There were additional cases Detective Karo investigated improperly that were not reviewed in the Internal Affairs investigation. Many of those cases were reopened and assigned to homicide detectives due to the nature of the crimes and the Sheriff Department's responsibility to see the cases were investigated thoroughly. The reassignment of cases caused a significant burden on the homicide detectives who were working their own cases in addition to the child abuse cases.

Sergeant Jones' investigation confirmed a number of flaws with Detective Karo's cases. Generally, they included:

- Failure to contact and interview witnesses.
- Failure to contact and interview victims.
- Failing to run criminal history checks for suspects.
- Failure to contact and interrogate suspects.
- Relying too much on telephone interviews rather than in-person interviews.
- Relying too much on Child Welfare Services rather than conduct independent criminal investigations when indicated.
- Failing to cross report a child abuse incident as required by law.
- Failing to recognize and investigate a felony child abuse crime.

Most, if not all of the flaws listed above are basic skill sets that a deputy sheriff with Detective Karo's training and experience should possess. I will outline Detective Karo's training and experience later in this report.

During the Internal Affairs interview on January 6, 2015, Detective Karo acknowledged many of the flaws in his cases. His general excuse was there was no formal training program in the unit. Detective Karo said he obtained his knowledge from the other detectives in the unit as well as from supervisors who were reading his reports. Detective Karo acknowledged working with other senior detectives during call-outs.

I reviewed Detective Karo's work history and training file. Detective Karo was hired as a deputy sheriff in 2006. During his approximate nine-year tenure, he attended basic academy. His assignments included Court Field Services, Patrol, and Traffic Investigations prior to his transfer to the Child Abuse Unit.

Prior to his assignment to the Child Abuse Unit, Detective Karo attended a significant number of law enforcement investigation courses. As a new patrol deputy, Detective Karo completed the field phase training regimen. He received additional specialized training that taught him the skills to be a traffic investigator. During all of these training sessions, Detective Karo was afforded the opportunity to learn basic skills that are common to any investigation. Patrol deputies conduct preliminary investigations and are trained to interview suspects, victims, witnesses, and to collect evidence. In the academy and in phase training, deputies are taught to document their investigations by writing concise, accurate reports that contain details relevant to the crime. They are taught computer skills so that they can utilize various computer databases to

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locate suspects, witnesses, and other vital information that can assist with an investigation. As a traffic investigator, Detective Karo was responsible to conduct investigations including searching for hit and run suspects. In summary, Detective Karo received ample training and had enough experience to conduct acceptable investigations.

I will agree there are nuances unique to Child Abuse investigations. Those subtleties include forensic interviewing of youthful victims, and require an investigator to deal delicately with victims and their families. There are other aspects of child abuse investigations that can enhance an investigator's skill. In fact, Detective Karo received training in the subjects of sexual assault child abuse investigations, search and arrest warrants, advanced sexual assault and child abuse. Training records show that from November 2013 to January 2014 Detective Karo received 96 hours of such training. After careful review of Detective Karo's cases presented in the Internal Affairs investigation, I believe Deputy Karo's malfeasance in this case was not solely due to a lack of training or experience.

During Detective Karo's pre-disciplinary hearing, Ms. Steiner mentioned there was no training program in the unit as it exists now. That is true. The unit now uses a training matrix to ensure new detectives have exposure to various types of cases, and there are formalized training officers within the unit. There is evidence in this case that a more informal mentoring atmosphere was available for Detective Karo when he was in the unit. While a more formal program may have been of benefit to Detective Karo, I do not find the absence of such a program mitigates Detective Karo's apparent indolence and lack of work ethic.

The Child Abuse Unit is a competitive position. A job announcement, job description and job duties are posted for all who apply to read. Being selected for the position requires an affirmative action by a deputy that includes submitting a transfer request and resume. Accordingly, Detective Karo knew the job description and duties when he applied for the position in the Child Abuse Unit. If he thought he was ill prepared for a position in such an important investigative unit, he probably should have sought another assignment. When he accepted the position, the Department deserved and expected he complete those job duties with honor, diligence and tenacity.

I am convinced that Detective Karo's cases were not investigated properly in large part because he did not have the desire to work diligently. Detective Karo gave an indication of his lack of drive prior to being transferred from the unit. On June 16, 2014, I received written correspondence from [REDACTED] regarding some additional information about problems within the Child Abuse Unit. The correspondence is attached to the Internal Affairs investigation. Among other things, [REDACTED] related that Detective Meleen told him he recently attended a forensic interview with Detective Karo. Detective Karo allegedly said he hoped he did not get a disclosure ostensibly so he would not have to conduct further investigation.

On December 23, 2014 Sergeant Jones interviewed Detective Meleen as part of this investigation. Detective Meleen agreed to be truthful in the interview under threat of discipline, including termination. Detective Meleen told Sergeant Jones about an incident during which

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Detective Karo made the comment he did not want to get a disclosure from a child victim. Detective Meleen and Detective Karo were driving to a forensic interview appointment at the time. Detective Karo explained that with no disclosure, he could close out the case in a day. If he obtained a disclosure, there would be more work for him to do. Detective Meleen's impression was that Detective Karo did not want to do his job.

When Sergeant Jones interviewed Detective Karo on January 6, 2015, approximately six months after the alleged incident, Detective Karo told Sergeant Jones he could not recall making such a statement or even remember going to a forensic interview with Detective Meleen. Despite Detective Karo's inability to recall this incident, I have no reason to believe Detective Meleen would make this up and talk to [REDACTED] about it. Detective Karo and Detective Meleen were friends who have worked and socialized together. When taken in context with Detective Karo's work product, this alleged statement certainly could help explain the pattern of substandard investigations and poor work ethic.

In the paragraphs that follow, I included what I found to be the most egregious cases that Sergeant Jones covered in his investigation along with my comments that guided my disciplinary recommendation.

Case [REDACTED] In this case, the Child Abuse Unit received a referral from Child Welfare Services (CWS) that a child who was living in Ramona with her grandparents was exposed to methamphetamine abuse by her grandparents in the home. The referral also mentioned a four-year old step-granddaughter was being sexually abused in the home. Detective Karo conducted no investigation whatsoever. He "unfounded" the case based upon the CWS worker's assessment. Had Detective Karo run a criminal history check on the grandfather, he would have learned the grandfather indeed had a history of controlled substance possession and possession of hypodermic syringes. He also had a misdemeanor arrest warrant.

When Sergeant Jones spoke with Detective Karo about this case on January 6, 2015, Detective Karo said he was told to conduct investigations that way. Detective Karo said other detectives were doing the same thing "a lot." Detective Karo's assertion is not accurate with respect to how other detectives were working cases. The audit prompted by [REDACTED] allegations reviewed a significant number of cases investigated by *all* detectives in the Child Abuse Unit. The audit did not support Detective Karo's contention that other detectives, with the exception of the two other accused detectives, were conducting investigations that way.

Case [REDACTED] In this case, a four-year old disclosed to her mother that the maternal grandfather had exposed his penis to her. The mother also told Detective Karo that her father, the alleged abuser, lived in Live Oak, California (Sutter County). She had concerns for her brother's children who live on the same property with her father. Detective Karo wrote a very short report indicating the mother did not desire any further investigation or prosecution. Detective Karo did not cross-report the mother's concerns about the children who lived on the property to the Sutter County Child Welfare Services.

There seems to be a pattern with some of Detective Karo's cases. He wrote in this case the mother did not desire any investigation or prosecution. Yet, as the following paragraph will explain, the victim in this case cooperated fully with another investigator.

Detective Christi Ramirez of the Homicide Detail reopened the investigation. Detective Ramirez was able to conduct a forensic interview with the child which yielded a disclosure of abuse. Detective Ramirez also learned the child's mother had repressed memories of herself being sexually abused by her father. Detective Ramirez traveled to Sutter County and interviewed other witnesses and the suspect. Detective Ramirez cross reported the incident to Sutter County Child Welfare Services. She submitted the case to the District Attorney for review.

As Sergeant Jones correctly identified in his investigation, Detective Karo did not cross report this incident to Sutter County. Detective Karo is mandated by Penal Code Section 11166(k) to cross report to a Child Welfare Services agency. His failure to report the allegations in case [REDACTED] is a misdemeanor violation of the code. All deputies are taught early in their career they are mandated reporters of child abuse or suspected child abuse. Sheriff's Department Policy and Procedure section 6.17 is clear that all incidents of suspected child abuse shall be reported regardless if the incident occurred outside of the Sheriff's Jurisdiction. I find that Detective Karo's failure to report as mandated by Sheriff's Policy and Penal Code Section 11166(k) is a violation of Sheriff's Policy and Procedure section 2.6—Conformance to Laws, which states:

2.6 Conformance to Laws

"Employees shall obey all laws of the United States, of this state, and of local jurisdictions. The acts of employees giving rise to an indictment, information or complaint, filed against an employee, or a conviction for violating any law, including a conviction following a plea of nolo contendere, may be cause for disciplinary action, temporary or permanent reassignment (excluding minor traffic). Employees shall immediately inform their immediate supervisor of any and all circumstances where non-conformance to laws has been, or may be, alleged by any law enforcement agency."

As it relates to Penal Code Section 11166(k).

Case [REDACTED] Detective Karo's reason for closing a Child Welfare Services referral in this case is absurd. Similar to case [REDACTED] an *anonymous* person reported a 14 year old boy was living with his mother who was a drug addict and prostitute. She was allegedly providing marijuana to the child and there was drug paraphernalia in the residence. Detective Karo concluded in his report that there was no way for him to conduct an investigation because he could not contact the reporting individual who chose to remain anonymous.

The penal code allows for anonymous reporting of child abuse incidents to child welfare agencies. Moreover, law enforcement routinely receives anonymous tips regarding possible criminal activity. Detective Karo had enough information in the referral to conduct a follow-up on a potential felony child abuse allegation. Detective Karo cannot blame training, lack of experience or lack of supervision for his failure to carry out his duty in this case.

There is no reasonable excuse for Detective Karo's failure to conduct an investigation in this case. I question Detective Karo's reasoning for closing this case with no investigation. In case [REDACTED] which was an anonymous tip, Detective Karo at least called a CWS worker. There was plenty of information in case [REDACTED] to conduct an investigation. This malfeasance can be explained by laziness, and a lack of work ethic.

Case [REDACTED] Detective Karo was assigned this case on January 31, 2014. The case involved a four year old girl whose mother and father lived in two different locations, and they shared custody. Upon returning from her father's home, the child's mother noticed a bite mark on the child's arm and a bruise on the child's torso. The mother took photographs of the bite mark.

Detective Karo's investigation entailed calling a CWS worker on February 6, 2014. Detective Karo reported that the CWS worker saw no marks on child. The report does not mention when the CWS worker saw the child, nor did Detective Karo obtain the CWS worker's report. Detective Karo spoke with the child's mother on the telephone. It is not clear from the report when Detective Karo spoke to her because those details are not documented.

Detective Karo asked the child's mother to send the photographs of the injuries. I viewed the photos, and although they are not high-quality, they certainly appear to be photographs of a bite mark. With no additional investigation, Detective Karo justified closing the case because there was not "any clear evidence of injury." This statement is misleading. During the Internal Affairs interview on January 6, 2015, Detective Karo said he did not know what the bite marks depicted at the time of the investigation. Upon reviewing the case and photos again, Detective Karo told Sergeant Jones the injuries were most likely bite marks. I believe when confronted with the evidence, Detective Karo had no option but to acknowledge what the photographs depicted.

At minimum, Detective Karo should have arranged a forensic interview with the child, attempted to interview the suspect and run a criminal history check on the suspect. Detective Karo closed this case prematurely. Detective Karo told Sergeant Jones the words in his report, "any clear evidence of injury" were a poor choice of words. I believe Detective Karo closed this case because he did not want to investigate it, and he intentionally worded his report to make the case appear unworkable.

Case [REDACTED] In this case, a father punched his 13 year old son in the nose causing a fracture. Detective Karo, relying solely on CWS's assessment closed the case. This case had to be reopened after Detective Karo left the unit. The investigation revealed a prior incident involving the victim and his father. During that incident, the victim suffered another injury. Detective Karo's lack of investigation is disturbing. During the Internal Affairs interview on January 6, 2015, Detective Karo attempted to justify his lack of investigation in this case by again stating he was taught this way. Sergeant Jones told him if the unit audit had revealed other cases were being closed this way, there would be more accused employees. I find that Detective Karo's claims that other detectives taught him is an attempt to conceal his own misconduct.

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Case [REDACTED] In February 2014, San Diego Police Sex Crimes Detective Samantha Fleming took a courtesy report and interviewed the victim in Sheriff's case [REDACTED]. The 14 year old victim disclosed sexual abuse by her grandfather during a discussion with a worker at the San Diego Center for Children. The victim, who was adopted, told the worker that she wanted to talk to law enforcement about the abuse. There were other adopted children in the victim's home who were listed at risk. There was a history of abuse referrals at the victim's residence for her and her siblings. Detective Karo's investigation consisted of reading the referral and Detective Fleming's report, speaking with a public social worker and closing the case. He did not talk to the victim, other siblings, adoptive parents or attempt to contact the suspect. He did not run a criminal history to see if the suspect or parents had a prior criminal history.

Detective Karo wrote in his report, "Due the fact that [REDACTED] (victim) does not desire prosecution in this case, her mental health history, the lack of witnesses and the time frame of the incident, this case will be closed as Department Closure."

It is a fact that children exposed to sexual abuse often suffer mental health issues as a result. Detective Karo based his case disposition, in part, on [REDACTED] mental health history. According to his report, Detective Karo relied on mental health information the victim's parent relayed to either a social worker or Detective Fleming. I am not clear on this point because Detective Karo's report refers to Detective Fleming as both Detective Fleming and PSW Fleming. There was a PSW [REDACTED] involved in the case, so the report is confusing as to who actually received the information about the victim's mental health issues.

Detective Karo should not have relied on hearsay given to another agency about the victim from her adoptive parents. It is entirely conceivable the abuse occurred, and the family was concealing the behavior to protect the perpetrator. This type of behavior is not uncommon in familial child abuse cases. The lack of witnesses and delayed disclosure is common in many of these types of cases. These types of issues were discussed routinely at the Child Abuse Unit meetings. It was Detective Karo's duty to investigate this case and he failed to do so.

The most disturbing element in Detective Karo's case report is Detective Karo's assertion the victim did not desire prosecution. Detective Karo wrote the following in his report:

- "[REDACTED] does not want her grandfather arrested and does not want to cooperate with prosecution."
- "Due to [REDACTED] not wanting to proceed with prosecution, this case will be closed as Department Closure."
- "[REDACTED] does not want her grandfather arrested. She does not think anyone is going to believe her. [REDACTED] stated she does not want anything done about this."

When Detective Fleming asked what she wanted done with her grandfather, she replied she did not know. She did say at one point, "I don't really want anything done about this. I feel like my

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parents are going to hate me and something bad is going to happen. I think they are in denial about what happened. I feel like I'm gonna be the bad person."

In the very next paragraph Detective Fleming wrote that she spoke to the victim about conducting a pretext phone call to her grandfather in order to get him to admit what he did. The victim replied she would do that. She was just scared because she did not know how her family would react. I do not know if Detective Karo listened to Detective Fleming's recorded interview with the victim. If he did not listen to the interview he neglected his duty. If he did listen to the audio he would have learned the victim made disclosures to her parents, grandparents, and a cousin. The victim was resolute that the sexual crime took place and that she was willing to call her grandfather and attempt a controlled telephone call. There was more than enough information to justify a follow-up investigation.

Detective Karo used elements of Detective Fleming's report selectively and included them in his report. In other words, he "cherry picked" the victim's words that would seemingly justify closing a case. Detective Karo omitted the fact the victim was willing to conduct a controlled telephone call. He failed to take note that the victim was confused, and obviously worried about family dynamics. Detective Karo's report leads the reader to believe something that was not true. The sections Detective Karo chose to include in his report were taken out of context and were deliberately deceptive.

I find Detective Karo's misconduct in this case unacceptable. Detective Karo's report clearly violates Policy and Procedure section 2.41. The report is not truthful and complete. Detective Karo obviously read the San Diego Police report prepared by Detective Fleming because he used Detective Fleming's report to craft his report. He wrote inaccurate information and his omission of pertinent facts invalidates the entire credibility of the report. It is entirely reasonable to assume Detective Karo's omissions were intentional so he could avoid work and are tantamount to a lie. If Detective Karo argues the omissions were not a lie then his malfeasance amounts to gross incompetence. Either way, the report is untruthful.

When asked about this case during the initial Internal Affairs interview with Sergeant Jones, Detective Karo said the SDPD detective wrote the victim did not desire prosecution so he decided to close the case. Detective Karo told Sergeant Jones the "no pros" was his focus. When asked if he took the police interview to mean this case was a "lost investigation" Detective Karo agreed. Detective Karo wrote in his report that PWS [REDACTED] closed her case as inconclusive. This should have been a signal for Detective Karo to do something with this case other than close it. This was a workable case with respect to the victim's allegation. Furthermore, Detective Karo did not even address the other siblings that were listed in the referral as possible victims of abuse or neglect.

Case [REDACTED] In this case, a 15 year old girl reported sexual abuse by a 30 year old man who had been living at a friend's house. The abuse took place when the victim was in the seventh grade, but she delayed reporting the incident. The suspect in the case had since moved to Washington State. Detective Karo obtained an address and telephone number for the suspect. Detective Karo reported he left "several" phone messages for the suspect. During the hearing

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with me, Ms. Steiner represented that Detective Karo believed there was no money for travel so Detective Karo did not go to Washington. Detective Karo may have erroneously believed that, but when asked about the case during the Internal Affairs interview on January 6, 2015, the dialog between Detective Karo and Sergeant Jones was as follows:

KJ: *Um, you never requested to fly to Washington to interview the suspect. Why didn't you do that? This Department is very generous in sending our detectives all across the country to talk to people about our cases. I know that first hand.*

MK: *Ah, that probably didn't even cross my mind that it was something I would do.*

Detective Karo cannot have it both ways. Either it did not cross his mind, or he did not ask to go because he thought there was no money.

A basic investigator should know that law enforcement agencies travel from time to time in an attempt to solve crimes, especially heinous crimes such as sexual abuse of a child. Often, the perpetrators of such crimes continue to prey on vulnerable victims, which is why law enforcement should investigate each case thoroughly. The public has an expectation that law enforcement investigate these types of cases vigorously.

The Sheriff's Command Staff routinely approves travel funding for detectives. There is no evidence that Detective Karo even asked to travel to Washington State. Frankly, I did not understand how Detective Karo surmised he could not travel to interview a suspect. During Detective Karo's stint in the Child Abuse Unit, other detectives were authorized travel to investigate their cases.

During my pre-disciplinary hearing with Detective Karo, Ms. Steiner said that even [REDACTED] mentioned that funding for travel was a concern for him. Sergeant Jones asked [REDACTED] in his Internal Affairs interview if someone told him the unit did not have funding to travel. [REDACTED] replied the local agency would have to contact the suspect and if they did, [REDACTED] could authorize a detective to travel. [REDACTED] is correct. It is fiscally responsible and practical for a detective to liaison with an outside agency and ask them to confirm the suspect's address if possible.

While preparing this Recommendation and Rationale, I found some additional issues with Case [REDACTED]. On July 22, 2015, I contacted Sergeant Jones in Internal Affairs and asked him to review the audio interview of Detective Karo's interview with the 15 year old victim. I also asked him to compare Detective Karo's report to the victim's interview as well as Detective Karo's characterization of the victim during his Internal Affairs interview on January 6, 2015.

Sergeant Jones' initial finding for Detective Karo was a violation of Policy and Procedure section 2.30, Failure to Meet Standards. Sergeant Jones conducted his additional investigation and conducted a second interview with Detective Karo on June 25, 2015. Sergeant Jones sustained

July 6, 2015

additional violations for Policy and Procedure section for 2.4, Unbecoming Conduct and 2.41 Departmental Reports. I discuss this case in detail in the following paragraphs.

During the phone interview with the victim in case [REDACTED] Detective Karo told the victim the case was not prosecutable and the District Attorney would not issue the case. Detective Karo was not in a position to make that determination. The decision to prosecute rests with the District Attorney. During Sergeant Jones interview on June 25, 2015, Detective Karo spoke about the possibility of the District Attorney filing the case. Detective Karo told Sergeant Jones he did not know what their decision would be because he was not a District Attorney.

Although Detective Karo may know what facts and evidence could lead to a prosecution, he is not the final authority. Moreover, when Detective Karo told the victim, he had not even contacted the suspect or attempted to elicit a confession from him. Detective Karo obviously knows he is not the prosecuting authority, and he should not have made these statements to the victim before he had started his investigation in earnest. This behavior cannot be mitigated by lack of training or improper supervision. Detective Karo made the statement to a 15 year old victim without direction from anyone in a clear attempt to dissuade her from pursuing charges.

While talking to the victim in case [REDACTED] Detective Karo stated the suspect probably would not give a confession, he lived out of state and he might be difficult to locate. Detective Karo could not reasonably be sure how the suspect would react. Some suspects confess and others do not and I know Detective Karo is aware of this fact. Detective Karo took the negative approach with the victim to dissuade her from pursuing the case.

Detective Karo obtained a telephone number and address from Lexis Nexus for the suspect in Washington. Yet, he misled the victim by telling her he might be difficult to locate. During the investigation Detective Karo spoke with the Jefferson County Sheriff's Office in Washington State and learned they had contacted the suspect during a call for service. It likely would have been easy to locate the suspect with the information Detective Karo had. Again, he misled the victim by telling her he could not go to Washington to try and contact the suspect. Ultimately, this case was reassigned, and a detective found the suspect and easily obtained a statement. Although the suspect did not admit to the sexual assault, he partially corroborated the victim's account including the smoking marijuana with her, and being with her in the location where the crime allegedly took place.

During the victim interview in case [REDACTED] the victim told Detective Karo that the suspect put the tip of his penis in her vagina. She told him the suspect could not get his penis all of the way inside of her because she was too small. She said the suspect was trying to force it (penis) into her. She also told Detective Karo that the incident lasted about 20 minutes, and the victim told the suspect to stop. After the victim revealed these details, Detective Karo told the victim that she told the original reporting deputy the suspect did not get his penis into her. The victim told Detective Karo that she felt uncomfortable talking about it at the time, but she was telling the truth. Detective Karo would later characterize this and other factors in the case as inconsistent

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statements. He made it a point to highlight these "inconsistencies" with the victim during the interview. I believe this was part of his strategy to dissuade the victim from pursuing the case.

Detective Karo also concluded there was another "inconsistency" with her statement to him and the original crime report. The report stated the suspect picked the victim up, and she was basically straddling him when he committed the act. Detective Karo questioned the victim about the length of time this occurred. Referencing the report, he said to the victim, "It was very brief that he had picked you up and now you're telling me 20 minutes." The deputy's report Detective Karo referred to did not use a direct quote and actually read, "This happened for a short period of time but she could not remember how long." Detective Karo then asked the victim if she was saying the deputy's report was wrong. Detective Karo's statements to the victim were inflammatory. This was not an inconsistency for which the child should have been questioned in such a manner. The victim told the original reporting deputy *she could not remember how long*. The victim told Detective Karo the act *seemed* to last about 20 minutes. The tone of Detective Karo's interview had the effect of causing the victim to make a comment indicating she did not think Detective Karo believed her. His response to the victim regarding her truthfulness was ambiguous. Detective Karo's treatment of the victim in this manner was shameful.

In his written report, Detective Karo omitted the rape disclosure about the suspect inserting the tip of his penis the victim's vagina and trying to force it in. That detail is obviously relevant and should have been included in the written synopsis of the victim's interview. Sergeant Jones did not address this omission in his addendum report, but I believe it should be mentioned as it further demonstrates a violation of 2.41—Departmental Reports, which states:

"Employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete; no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, nor omit pertinent information reasonably expected to be included."

Lack of training and failure by supervision to correct reports does not mitigate this omission. Deputies are taught to include relevant details such as this in their reports. In essence, Detective Karo omitted the victim's disclosure in his report that the victim was raped. A sergeant or anyone else would not know critical information was missing by reading Detective Karo's report.

Detective Karo had other factual misrepresentations within his report. He wrote, "When I asked [REDACTED] (victim) about some of the variances in her statement to Deputy Park, she became upset. [REDACTED] thought maybe this occurred three years ago. I asked [REDACTED] about staying the night at [REDACTED] house and the fact that [REDACTED] and her mom said she hadn't. [REDACTED] became very upset and uncooperative at this point in the conversation."

This is a gross distortion about [REDACTED] demeanor. The victim did tell Detective Karo she was really mad because it sounded like Detective Karo was telling her she was not telling the truth. The victim was unwavering in her zeal to get Detective Karo to do his job. She continued to

July 6, 2015

converse with Detective Karo until it became abundantly clear after approximately 30 minutes that he was going to give her excuses rather than do his job. Never once did the victim become uncooperative during the entire interview nor did she raise her voice despite the fact was she clearly frustrated with his double-talk.

When questioned in the Internal Affairs interview that took place on January 6, 2015, Detective Karo told Sergeant Jones that the victim was yelling at him and was uncooperative. Again, this is a perversion of the truth. The victim was not shouting, getting loud yelling. The victim remained calm and mature even though Detective Karo went out of his way to tell the victim everything that was wrong with the case before he ever conducted a complete investigation.

Detective Karo asked the victim four times if she was willing to move forward with the case, and if she wanted him to contact the suspect. The victim indicated that she did. Every time the victim indicated she wanted the case to move forward, Detective Karo gave the victim a multitude of reasons why the case could not be proven. The victim told Detective Karo she wanted to, "...fight for what he did wrong to me..." Detective Karo himself must have known his behavior during the interview was inappropriate; he told the victim he was not trying to be a "jerk" and not trying to be "insensitive." On June 25, 2015, when Sergeant Jones asked Detective Karo if he thought the interview was appropriate, Detective Karo thought the only inappropriate part was when he told her he had an attitude. Judging from that statement, Detective Karo either did not grasp that the entire interview was degrading to the victim and inappropriate or he was being disingenuous in a feeble attempt to justify his misconduct.

At one point near the end of the interview, Detective Karo asked the victim once again if she wanted him to move forward with contacting the suspect. The victim, clearly exasperated at this point, told Detective Karo she had been trying to convey to him that she did. She told him, "You clearly haven't been listening." Detective Karo's response was, "Okay, you *really* have an attitude." It is clear to me that Detective Karo undoubtedly did not like the victim's answer and repeatedly asked her over and over hoping her answer would change.

It was obvious the victim wanted the case investigated. In fact, Detective Karo asked the victim if she would be willing to go to court and she responded she would—another pertinent fact that was omitted from Detective Karo's report. The victim seemed genuinely frustrated that it did not appear the suspect would be brought to justice.

During the Internal Affairs interview that occurred on June 25, 2015, Detective Karo revealed the victim's father had called him shortly after he had talked to the victim. Detective Karo said he could not remember much of the conversation, but he remembered the victim's father was upset. Detective Karo said he explained the issues with the case to the father. Detective Karo represented that the father was no longer upset after the telephone conversation. There was no documentation of this conversation in the case file.

During the Internal Affairs interview on June 25, 2015, Detective Karo told Sergeant Jones he believed he told the victim he was going to send the case to the District Attorney. This is not what he told the victim. He told the victim that if he contacted the suspect and obtained a

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statement he would send the case to the District Attorney. He told her the case would be suspended otherwise. Indeed, Detective Karo suspended the case without sending it to the District Attorney. However, during the Internal Affairs interview on June 25, 2015, Detective Karo told Sergeant Jones that he would not close out a case like this without sending it to the District Attorney for review. He told Sergeant Jones he would not close a rape case out with a "no pros" disposition. During the interview, he also told Sergeant Jones that this case would go to the District Attorney "no matter what." It is unfathomable why Detective Karo made this statement to Sergeant Jones when Detective Karo knew he suspended the case without sending it to the District Attorney.

Detective Karo had a second opportunity to review the audio interview and reports with his attorney just prior to the interview with Sergeant Jones on June 25, 2015. During the interview, Detective Karo told Sergeant Jones he still would have had to complete a report and send it off to the District Attorney. Detective Karo knew or should have known he suspended the case. Within his own case report he wrote, "This case will be suspended pending further investigative leads including the whereabouts and ability to speak with [REDACTED] When put into a position where Detective Karo tried to defend his misbehavior, he mischaracterized facts during the Internal Affairs interview. I believe Detective Karo demonstrated a pattern of behavior in which his verbal and written statements are not accurate.

As stated previously, I do not believe Detective Karo failed as a child abuse detective because he lacked the skills to conduct investigations. I believe Detective Karo did not conduct quality investigations because he was apathetic and lazy. He apparently allowed his indifference to cloud his judgment so much that he resorted to manipulation and misrepresentation of facts in cases to make them appear unworkable. I found several of his reports were deceitful and I think the most reasonable explanation is because Detective Karo wanted to avoid hard work.

It is clear that Detective Karo tried to talk victims out of prosecution, another indicator of his lazy work ethic. Detective Karo represented to the 15 year old victim who was trying desperately to urge Detective Karo to do his job that he loved to put people in jail, as that was the reason he became a cop. Detective Karo's investigations do not validate that statement.

The effect of Detective Karo's misconduct required that many of his cases be reassigned to a homicide detective for proper investigation. At present, one of those cases led to an arrest and conviction. The defendant is facing a significant prison term. Detective Karo's malfeasance caused the effectiveness of the Department to be compromised. His conduct had the potential to expose society's most vulnerable victims, children, to continued physical, emotional and sexual abuse. Detective Karo's cases likely eroded confidence in law enforcement for some victims. Certainly if some of his investigations were made public, his actions would bring tremendous embarrassment and discredit to the Sheriff's Department and the County of San Diego.

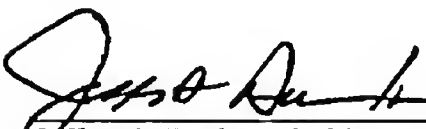
Detective Karo failed to embrace the mission of the Sheriff's Department to provide the highest quality public safety services. He failed to uphold Departmental Core Values to include honesty, integrity, loyalty, and respect. Unfortunately Detective Karo has demonstrated he is incapable of

remaining in his current capacity as a deputy sheriff. The position requires the utmost of integrity and the ability to do what is right, even when no one is looking.

Despite some of the mitigating factors in this case, chiefly a failure to supervise, the omissions in Detective Karo's reports that made them false and inaccurate are my biggest concern and cannot be mitigated by poor supervision or training. Detective Karo may argue that his omissions were oversights or modest mistakes. I do not believe this is a valid argument. Detective Karo's alleged statement to Detective Meleen about having to work is telling when one looks at Detective Karo's work product. Even if Detective Karo were to argue his report omissions and outright mischaracterization of situations were somehow honest mistakes, that does not change the fact that at least two of the reports highlighted in this case are nullified by the available evidence. Integrity is a personal choice and is a hallmark of a good deputy sheriff. I believe Detective Karo has demonstrated that he cannot hold a position of trust.

Peace officers have tremendous authority. With that authority comes tremendous responsibility. Writing complete and accurate reports is a basic tenet for law enforcement officers. This is ingrained in our training from the very beginning of our careers. Detective Karo's reports do not appear to reflect honest oversight or modest mistakes. His reports, when taken in context of his entire work product, appear to have been purposely falsified to avoid work. This is completely unacceptable. If Detective Karo were the subject of a Pitchess motion, a judge would almost certainly have to disclose Detective Karo's malfeasance with respect to his reports. Likewise, if the District Attorney's office became aware of Detective Karo's malfeasance, the dishonest reports would likely be "Brady material" and may have to be disclosed to the defense. These would likely render Detective Karo ineffective as a peace officer.

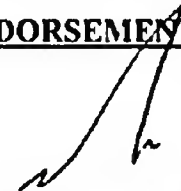
I believe the discipline is warranted and equitable based on the seriousness of the misconduct.

 7-6-2015
Jeffrey S. Duckworth, Lieutenant Date
Family Protection Detail

JSD:jsd

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ENDORSEMENTS:



William Donahue, Captain
Central Investigations Division

☒ () Approve

() Disapprove

Date: 7-14-15

Comments: _____

Michael R. Barnett, Commander
Law Enforcement Operations--Investigations

() Approve

() Disapprove

Date: _____

Comments: _____

Mark P. Elvin, Assistant Sheriff
Law Enforcement Services Bureau

() Approve

() Disapprove

Date: _____

Comments: _____

Ed Prendergast, Undersheriff

() Approve

() Disapprove

Date: _____

Comments: _____

William D. Gore, Sheriff

() Approve

() Disapprove

Date: _____

Comments: _____

RELEASED FROM
I.A. FILES
TO _____

From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter

IA# 2014-108.1

As indicated on the "Notice of Intent" to discipline, which you are receiving, disciplinary action against you is being considered. If you wish to invoke your right to a pre-disciplinary due process hearing on this matter (*Skelly Conference*), you must make the request within five (5) regular business days. The Skelly Conference is a relatively informal hearing, not an adversarial evidentiary trial. The final date to request a hearing is indicated on your "Notice of Intent". Your request should be made by calling the Internal Affairs Unit at (858) 974-2065.

If you do not request the conference within that time, your right to a Skelly Conference will have been waived, and the recommended discipline may be imposed.

Your Skelly rights are:

1. To receive a written "Notice of Intent" to discipline, that may be served upon you, either in person or by mail. That notice will include the level of proposed discipline, the charges, and a brief explanation of the reason for the discipline.
2. To receive a copy of the materials upon which the proposed discipline is based, including reports, tape/digital recordings, photographs, etc. Any item certified as confidential and withheld from you by the department cannot be used as a basis for discipline.
3. To have sufficient time to review the supporting materials so that your response can be prepared.
4. To respond orally, in writing, or both to the proposed discipline and charges.
5. To a hearing officer who is not in your chain of command.
6. To have a representative or attorney present at the hearing.
7. To receive copies of all materials prepared as a result of the Skelly Conference.
8. To receive a new Skelly Conference for any new charges or increased discipline, which arise from the Skelly Conference.

I have read and understand my Skelly rights.

Mark Karo

Witness

Date

Released from I.A. Files:
To: _____

From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

ORDER NOT TO DISCLOSE MATERIALS

Pursuant to Department Policy, materials are being furnished to you upon which your proposed discipline is based. These materials are reproductions and are a part of the confidential employee personnel records of the San Diego Sheriff's Department. Dissemination of this information is restricted to a need and a right to know.

You are ordered not to disclose, release, or copy these materials to or for anyone, other than your attorney and/or association representative, without the written authorization of the Internal Affairs Lieutenant. Materials include all written documentation, tape recordings, and videotapes.

Any unauthorized release of information contained in these documents compromises the confidentiality of your personnel file, and may impede the Department's ability to protect your confidentiality in future discovery motions. This could subject you and the County to unnecessary liability and criticism, to which the Department may be required to defend in a public forum.

You are strongly encouraged to destroy or return these materials when they no longer serve a useful purpose. Should you desire to review material related to your discipline at a later time, you may make arrangements with the Internal Affairs Unit.

Failure to abide by this order could result in a charge of insubordination, and subject you to disciplinary action up to and including termination.

Do not attempt to contact the complainant regarding the allegations, as this could result in future complaints. *"Retaliation is prohibited by state and federal law. We advise you to refrain from doing anything that may be construed as retaliation against the complainant or any witness involved in this investigation."*

I have received a copy of this order.

Mark Karo

IA# 2014-108.1

Released from I.A. Files: To:

Alvarez, Monica

From: Alvarez, Monica
Sent: Friday, January 15, 2016 1:41 PM
To: Curran, Timothy; Barnett, Mike; Frank, Todd; Nesbit, Larry; Smith, Denise (Reiber); Thomas, Sosha; Rankin, Matthew
Subject: Termination of Deputy Mark Karo

Effective 01/15/2016 , Deputy Sheriff Mark Karo has been terminated from the Sheriff's Department and Classified Service of the County of San Diego.

*Monica Alvarez ~ Admin Sec I
Internal Affairs Unit*

*Fax [REDACTED]
MS- 041*

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

*The order was served and accepted
by Kern on 1-15-2016 .
H*